Task Force on Lending Equity within Financial Institutions Providing State Depository Services

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MARYLAND GENERAL ASSEMBLY
TASK FORCE ON LENDING EQUITY WITHIN
FINANCIAL INSTITUTIONS PROVIDING STATE DEPOSITORY SERVICES

December 31, 2005

The Honorable Robert L. Ehrlich, Jr., Governor of the State of Maryland
The Honorable Thomas V. Mike Miller, Jr., President of the Senate
The Honorable Michael E. Busch, Speaker of the House of Delegates
The Honorable Members of the Maryland General Assembly

Ladies and Gentlemen:

The Task Force on Lending Equity within Financial Institutions Providing State Depository Services was created pursuant to Chapters 114 and 115 of 2004. The task force is charged with identifying data to demonstrate whether financial institutions providing or desiring to provide depository services to the State provide adequate access to credit and capital for minority business enterprises, advising the State Treasurer on developing additional or supplemental criteria to be considered in the selection of a financial institution as a depository, and developing a strategy to implement a lending equity policy.

Since the task force was not appointed until January 2005, the task force did not prepare an interim report, as required under the legislation for submission on or before December 1, 2004. Further, since the task force had not completed its work until the end of November 2005, the task force delayed the submission of the required September 1, 2005, final report until December 31, 2005.

The 19-member task force met 10 times between May and November 2005. At its meetings, the task force heard presentations from several sources, including State agencies, federal agencies, the minority business community, State and local small business assistance programs, and banking industry representatives. Further, the task force held workgroup

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meetings and used five of its task force meetings for work sessions. This report describes the activities and recommendations of the task force. The task force intends to introduce legislation which encompasses its recommendations in the 2006 session.

Sincerely,

Verna L. Jones
Senate of Maryland Co-Chair

Delegate Michael L. Vaughn
House of Delegates Co-Chair

VLJ:MLV/TDB/ncs

cc: Treasurer Nancy K. Kopp

Maryland General Assembly
Task Force on Lending Equity within Financial Institutions Providing State Depository Services
2005 Membership Roster

Senator Verna L. Jones, co-chairman
Delegate Michael L. Vaughn, co-chairman

Senator J. Robert Hooper
Senator Lisa A. Gladden
Senator James E. DeGrange, Sr.
Delegate Jeannie Haddaway
Delegate Talmadge Branch
Delegate Herman L. Taylor, Jr.

Representative of the State Treasurer's Office
Ms. Bernadette Benik

Representative of the Commissioner of Financial Regulation's Office
Mr. Charles W. Turnbaugh, Commissioner of Financial Regulation

Representative of the Governor's Office of Minority Affairs
Mr. John Petty

Representative of the Governor's Council for Historically Underutilized Business
Vacant

Rep. of the Governor's Task Force on Centralized Bidder Registration for Minority Business Procurement
Mr. Franklin M. Lee, Esquire

Representatives of the Banking Industry
Mr. Charles Martin, M&T Bank
Mr. Gordon Cooley, Sr. Vice President and Deputy Counsel, Mercantile Bancshares Corporation

Representatives of Minority Business Enterprise Owners
Ms. Vera Elizabeth Holman
Ms. Dargeelyn F. Loftin

Representative of the Commercial Insurance Bonding Industry
Mr. Earnest E. Hines, President and CEO, American Skyline Insurance Company
(Did not attend any meetings)

Member of the Public with experience in financial regulation and fair lending practices
Mr. James C. Ballentine

Committee Staff
Department of Legislative Services: Tami Burt and Ryan Wilson
Treasurer's Office: Vacant

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Executive Summary

This report describes the activities and recommendations of the Task Force on Lending Equity within Financial Institutions Providing State Depository Services. Generally, the task force's recommendations direct the State Treasurer, in its evaluation of which financial institutions to deposit State funds, to consider certain lending and other practices of the institutions to small and minority-owned businesses. The task force intends to introduce this session legislation which encompasses the recommendations.

Chapter 114 of 2004 established the task force with the purpose of developing meaningful criteria for evaluating minority business enterprises' access to credit and capital from financial institutions providing or desiring to provide depository services to the State and advising the State Treasurer on developing additional or supplemental criteria to be considered in the selection of depositories for State funds. The task force was also charged with developing a strategy to implement a lending equity policy. The enabling legislation specified that the task force's recommendations may incorporate the use of a Centralized Bidder Registration Identification Number (CBRID) and the findings of the Governor's Task Force on Centralized Bidder Registration for Minority Business Procurement (CBR Task Force).

Appointed in early 2005, the task force met 10 times during the May to November 2005 time period. During its meetings, the task force heard presentations from several sources, including the Treasurer's Office, the Governor's Office of Minority Affairs, the Commissioner of Financial Regulation, the Federal Deposit Insurance Corporation, the minority business community, State and local small business assistance programs, the Maryland Bankers Association and other banking industry representatives, the Department of the Environment's Water Quality Linked Deposit Program Authority, and the Department of Business and Economic Development.

The task force made several statutory and nonstatutory recommendations. Due to confidentiality concerns, as well as concerns that comparison data would not be meaningful, the recommendations did not include the use of a CBRID. Further, at the time of the task force deliberations, the CBR Task Force had not publicly issued a report.

The task force makes the following statutory recommendations to the State Treasurer:

Weight of Banking Evaluation Criteria: Currently, in weighing its evaluation of whether to use a financial institution, the Treasurer grants 75 percent of the weight to technical factors and 25 percent to financial factors. The Treasurer should include an assessment of the financial institution's activities in the minority business community – an "equity component." Accordingly, the technical factors should receive 60 percent of the Treasurer's consideration, financial factors would continue to receive 25 percent, and equity factors would receive 15 percent. The task force briefly discussed that the Treasurer's office could expand the members of the panel that the Treasurer's Office convenes to develop the RFP with other regulatory experts to discuss the incorporation of an equity component that can be measured during the selection process.

Lending Discrimination Violations: The Treasurer should consider whether a financial institution has had lending discrimination violations. In this regard, the Treasurer should consider final adjudicated lending discrimination violations that were filed in Maryland during the five years prior to response to the Request for Proposal (RFP). The Treasurer may use discretion in considering final adjudicated lending discrimination violations that were filed in other states during the five years prior to response to the RFP. The Treasurer may determine how to assess a lending discrimination violation by an affiliate or entity acquired by the financial institution.

Community Reinvestment Act Ratings: The Community Reinvestment Act (CRA) is intended to encourage depository institutions to help meet the credit needs of the communities in which they operate. Institutions are rated on their lending activities. The Treasurer should consider whether the financial institution had a CRA rating of "substantial noncompliance" or "needs improvement" in its most recent evaluation. Further, for institutions that operate in multiple states, the Treasurer should consider Maryland-specific information that is provided within the Washington, DC-Baltimore Assessment Area Section of the CRA report.

Participation in State and Federal Lending Programs: The Treasurer should consider whether a financial institution has successfully made loans in State and federal lending programs offered in Maryland to small and minority-owned businesses during the five years prior to response to the RFP.

Outreach Programs: The Treasurer should consider whether a financial institution demonstrates that it has an active outreach program to small and minority-owned businesses in Maryland during the five years prior to response to the RFP.

Strategic Partnerships with Technical Assistance Entities: The Treasurer should consider whether the financial institution demonstrates that it has established strategic partnerships and participates with entities whose mission is to provide technical assistance to small and minority-owned business during the five years prior to response to the RFP.

The task force made the following general recommendations for further consideration by the State to foster minority business development:

Linked Deposit Program: Although specifics were not provided, the task force recommends that the State should consider the creation of a linked deposit program as part of a lending equity strategy to increase lending to minority business enterprises. Under these types of programs, generally the financial institution underwrites loans to eligible minority businesses and the State and the institution enter into an investment agreement for a sum equal to the amount of the loans. The State takes a lower than usual interest rate on its deposits with that institution in return for the institution's below-market rate loans to minority businesses.

Small Business Development Funding: The task force recommends that the State increase funding to small business development centers around the State and look at other measures to increase small business development funding within the Department of Business and Economic Development.

Task Force on Lending Equity within Financial Institutions Providing State Depository Services

Introduction

This report describes the activities and recommendations of the Task Force on Lending Equity within Financial Institutions Providing State Depository Services. The first part of the paper summarizes the establishment of the task force. The second part describes the work of the task force, including its process and sources of information. The third part summarizes the work of the workgroups. The last part presents the discussions at the work sessions and task force's recommendations. The task force intends to introduce legislation which encompasses its recommendations in the 2006 session.

Establishment of the Task Force

Chapter 114 of 2004 established the Task Force on Lending Equity within Financial Institutions Providing State Depository Services. The purpose of the task force is to develop meaningful criteria for evaluating minority business enterprises' access to credit and capital[1] from financial institutions providing or desiring to provide depository services to the State and advise the State Treasurer on developing additional or supplemental criteria to be considered in the selection of depositories for State funds.

In carrying out its purpose, the task force is required to perform three tasks:

- identify data, such as a State Centralized Bidder Registration Identification Number, that would demonstrate whether financial institutions provide adequate access to credit and capital for minority business enterprises;

- advise the Treasurer in developing additional or supplemental criteria to be considered in the selection of financial institutions as depositories that ensures that such institutions provide adequate opportunities for access to credit and capital for minority business enterprises; and

- develop a strategy to implement a lending equity policy, which may incorporate the findings of the Governor's Task Force on Centralized Bidder Registration for Minority Business Procurement.

[1] Credit can be defined as a lender's agreement to provide funds or apply money to an account owned by a business customer. Capital, also called net worth, can be defined as the amount of money invested in the business plus retained earnings; also, it can be defined as assets (what the company owns) less liabilities (how much the company owes). Financial institutions generally provide credit and do not provide capital.

Members of the task force include four senators, four delegates, the State Treasurer's designee, the Commissioner of Financial Regulation, a representative of the Governor's Office of Minority Affairs, a representative of the Governor's Council for Historically Underutilized Business, a representative of the Governor's Task Force on Centralized Bidder Registration for Minority Business Procurement, two representatives of the banking industry, two owners of a minority business enterprise, a representative of the commercial insurance bonding industry, and a public member with State and national experience in financial regulation and fair lending practices. The enabling legislation is provided as **Appendix 1**.

Since the task force was not appointed until January 2005, the task force did not prepare an interim report, as required under the legislation for submission on or before December 1, 2004. Further, since the task force had not completed its work until the end of November 2005, the task force delayed the submission of the required September 1, 2005, final report until December 31, 2005.

Work of the Task Force

Although established in 2004, the task force was not appointed in time to meet during the 2004 interim. The task force began meeting in May 2005 and, after 10 meetings, completed its work in late November 2005. In addition to the meetings of the full task force, two workgroups made up of task force members worked to develop criteria for evaluating the efforts of financial institutions at reaching out to the minority business community and the collection of information to form the basis of the evaluation. During its meetings, the task force heard presentations from many sources. Some of the meetings were devoted as work sessions.

Briefings

Treasurer's Office: Current System for Procuring Depository Services

The task force started its work with a briefing on May 10, 2005, from the Treasurer's Office on the current system for procuring depository services, including the criteria used to evaluate responses to the Treasurer's requests for proposals (RFPs). The following are banking services provided under the State contract:

- depository;
- disbursement (vendor, income tax refund, and payroll);
- lockbox;
- merchant services;
- custodial services and securities lending;
- local government investment pool; and
- agency working fund and escrow accounts.

Under the RFP awarded beginning July 1, 2005, through June 30, 2008, the main State depository financial institution is Bank of America. State revenues, including tax revenues and lottery revenues are deposited in this institution in many forms (cash, checks, and electronic funds transfers). Each State agency has a unique "sub account" with the transactions consolidated into the main depository account each day. Over 1 million deposits are made monthly, amounting to about $9 billion in funds flowing through the account annually.

M&T Bank has been awarded the RFP for the State disbursement financial institution. There are separate disbursement accounts for vendor, tax refund, and payroll transactions through many forms. Over 800,000 disbursements are made monthly, amounting to about $9 billion. Disbursement services include positive pay, check clearance estimates, stop payment services, account reconciliation services, and check copies.

SunTrust Bank has been awarded the RFP for the State lockbox financial institution. The financial institution provides retail and wholesale lockbox services tailored to specific agency needs. The financial institution receives payment and coupons, collects on payments, remits funds to State depository accounts, and sends custom files with payment data to agencies. Examples include the business unemployment insurance payments and withholding and sales taxes.

Bank of America is the State merchant services provider. The financial institution provides merchant accounts, equipment for data collection and transmission, and processing of credit and debit card transactions. M&T Bank and Dresdner Bank provide custodial services and securities lending. M&T Bank handles the settlement and safekeeping of collateral on repurchase agreements, as well as serving as custodian of purchased securities. Dresdner Bank serves as the State's securities lending facilitator. Securities the State owns in its portfolio are lent to other financial institutions for a fee. Mercantile Bank operates the local government investment pool which is under the administrative control of the Treasurer and is designed to provide all local government units an investment vehicle for the short-term investment of funds. The pool invests in any instrument in which the Treasurer may invest, with a maturity of not more than 13 months. An administrative fee based on the asset size of the pool is accrued daily and charged monthly to the pool.

Ten financial institutions have been designated as the State's agency working fund and escrow financial institutions. These include Wachovia Bank, 1st Mariner, M&T Bank, SunTrust Bank, Bank of America, Provident Bank, Peoples Bank, CitiBank (partnering with Harbor Bank and Industrial Bank), County Bank and Trust, and Peninsula Bank. There are over 700 working fund accounts which are used by State agencies for minor purchases, pay and travel advances, petty cash, and a wide variety of other activities. Over 600 escrow accounts are used by agencies, principally the courts, hospitals, and correctional institutions. Each agency decides which financial institution or financial institutions to use for their service needs.

In selecting a financial institution to be a State depository or provide other State services, the Treasurer issues an RFP for a particular service or services based on the State's current and future needs. The RFP will include requests for new innovative solutions to handle current processes and needs that have been identified in discussions with user agencies. A financial institution is not eligible unless the institution has demonstrated compliance with Title 6, Subtitle 2, State Finance and Procurement Article (State Treasurer). Under this subtitle, institutions must comply with collateral and deposit insurance requirements.

Further, an eligible institution must meet certain mandatory legal and regulatory requirements (*i.e.,* contract affidavits and minority business enterprise requirements). The RFP details the list of service requirements, including the disclosure of the institution's customer service structure. The RFP contract lasts three fiscal years and may be extended for two additional two-year renewal options, to be entered into at the Treasurer's discretion.

An evaluation panel of 8 to 12 members is selected to review proposals. These members include representatives of the Treasurer's Office, the Comptroller's Office, and several user agencies. Proposals are evaluated based upon a rating matrix developed from service requirements. Points are awarded, depending on the institution's ability to meet the specified requirements. Pricing (cost to the State from using a particular institution) is a significant factor in this process.

Beginning with the fiscal 2005 contract, the Treasurer's Office requested the bidders to voluntarily provide (1) their most recent Community Reinvestment Evaluation Report; (2) whether they have been found, through either a judicial or administrative process, including substantial complaints under the Equal Credit Opportunity Act, to have discriminated in Maryland in its commercial lending practices; (3) a description of their training programs for State minority business enterprise (MBE) contractors regarding ways to gain access to commercial loans and credit; and (4) a description of their community outreach programs to address the needs of MBE contractors and vendors.

To have an MBE certified status under the State's MBE program, minority-owned businesses apply to the Maryland Department of Transportation and provide evidence of ownership and control by a minority person(s). A MBE is a business that is at least 51 percent owned and controlled by one or more minority persons. A minority is generally defined as an individual who is African American, Hispanic American, Asian American, Native American, a woman, or a disabled person.

The State's procurement law sets a minimum goal of 25 percent of the designated dollar value of procurement contracts to be made directly or indirectly to certified MBEs. Of that 25 percent goal, a minimum of 7 percent is to be awarded to certified African American-owned MBEs, and a minimum of 10 percent to be awarded to women-owned MBEs.

Governor's Office of Minority Affairs (GOMA): Findings and Recommendations of Two Other Task Forces

GOMA provides assistance to minority firms in Maryland who are seeking contract and procurement opportunities with the State. It also provides referral assistance and consultation to MBEs on both private and public sector opportunities and resources.

On May 31, 2005, GOMA presented information on the findings and recommendations of two other task forces: the Governor's Commission on Minority Business Enterprise Reform and the Centralized Bidder Registration Task Force.

Governor's Commission on Minority Business Enterprise Reform

The Governor's Commission on Minority Business Enterprise Reform, established in June 2003 by Governor Robert Ehrlich, was charged with making recommendations for reforming the MBE program. The original purpose of the MBE program to maximize the State contracting opportunities for minority businesses was not working as well as it could. An audit of the MBE program found that some numbers were overstated. With the growth in small and minority businesses, there seems to be a disparity as to the number of State contracts that are awarded to MBEs. Abuse by contractors was experienced, as contractors would name their MBE subcontractors after being awarded the State contract.

As described in its December 31, 2003, final report, the commission focused on five areas. First, GOMA needs to be strengthened with more resources and power to carry out its mandate. For statewide efficiencies, services provided by other State agencies need to be consolidated. Second, an Internet portal needs to be established and managed by GOMA to provide a "one-stop shop" for small and minority business. MBE law needs to be enforced and changes need to be made to the procurement system. Further, there needs to be more support for business development. As a result, contractors should be required to name their MBE subcontractors before being granted the contract. The commission suggests implementing a statewide mentor-protégé program.

Third, there needs to be tools and training in place to enable all State agencies to monitor State contracts and measuring performance of the program; new and existing sanctions need to be enforced. The commission suggests establishing a unique I.D. for each contractor and a statewide MBE operations manual. Fourth, the commission found that there is not enough capital available to MBEs and that there was continued discrimination in commercial lending. Among other recommendations, the commission recommends leveraging the State's discretionary spending by expanding the linked deposit program to benefit minority access to capital and encouraging local financial institutions to increase MBE's access to capital. Lastly, the commission recommends providing more incentives for certification as an MBE.

Centralized Bidder Registration Task Force

The Governor's Task Force on Centralized Bidder Registration (CBR) for Minority Business Procurement was established in February 2004 to make recommendations on the improvement of the accuracy of State agency reporting of minority business participation in State-awarded contracts. The CBR task force submitted its report in September 2004 to the Governor; however, it has not been released to the public at this time. The CBR task force discussed that the access to capital problem for MBE deals with the net worth of MBEs and discrimination of MBEs. A unique I.D. would be used to track MBE awarded contracts and payments, even at the subcontractor level. Lending institutions would need to request the CBR number when an MBE applies for a loan. Focus needs to be on collecting the data. However, questions arose as to who would be analyzing the data.

Commissioner of Financial Regulation: Regulation of State Chartered Institutions

On June 7, 2005, the Commissioner of Financial Regulation discussed the legal and regulatory framework governing the banking industry. The commissioner began by indicating that commercial lending is largely unregulated. Other than anti-discrimination laws, the numerous laws that protect consumers do not apply to commercial entities.

National financial institutions are chartered and regulated by the Comptroller of the Currency. There are about 2,000 national financial institutions in the United States. The Commissioner of Financial Regulation charters and regulates State financial institutions. In its responsibility for the safety and soundness of these institutions, the commissioner's office enforces compliance with State banking laws. Matters involving crimes, such as accusations of discrimination are referred, after investigation, to the proper law enforcement agency. All financial institutions in Maryland must be members of the Federal Deposit Insurance Corporation (FDIC). Financial institutions are examined regularly by State and federal examiners to ensure compliance with banking laws and regulations. There are approximately 61 State chartered financial institutions. Most of the financial institutions in the U.S. (about 7,000) are state financial institutions. State financial institutions are generally smaller and hold fewer assets than national financial institutions.

Maryland's Equal Credit Opportunity Act (ECOA) is similar to the federal Equal Credit Opportunity Act. The purpose of the State ECOA is to require that financial institutions and other persons and firms engaged in the extension of credit do not deny credit on the basis of sex, marital status, race, color, religion, national origin, or age. A complaint is filed with the Commissioner of Financial Regulation. After a hearing, the commissioner will order a violator to cease and desist. A violation of the federal ECOA is a violation of the Maryland ECOA. Any lender/creditor that violates the Maryland ECOA is liable to the applicant in an amount equal to the sum of any actual damages sustained by the applicant. Also, the violator is subject to punitive damages in an amount not greater than $10,000, as determined by the court. Further, an aggrieved applicant may institute a civil action for preventive relief.

Federal Deposit Insurance Corporation: Regulation of Federally Chartered Institutions

On June 7, 2005, FDIC discussed legal and regulatory framework governing the banking industry.

The Federal Reserve System (FRS) regulates its member financial institutions which include all national financial institutions and about 1,000 state financial institutions. FRS is responsible for promulgating regulations to enforce federal ECOA, among others.

FDIC, fundamentally an insurer, regulates nonmember state financial institutions that have FDIC insurance. Maryland requires all State financial institutions to have FDIC insurance.

ECOA prohibits discrimination in any aspect of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, age, receipt of income from a public assistance program, and the good faith exercise of any right under the Consumer Credit Protection Act. Overt discrimination would be when a lender blatantly discriminates on a prohibited basis. Disparate treatment would be when a lender treats applicants differently on a prohibited factor. Disparate impact would be when a lender applies a practice uniformly to all applicants but it has a discriminatory effect on a prohibited basis. Isolated violations and patterns or practice violations are referred to the federal Department of Justice.

Regulation B, which implements ECOA, applies to all lenders/creditors including all types of financial institutions, national or state chartered. Two sections of Regulation B permit a financial institution to collect information under certain circumstances relating to state law and regulation, that generally is otherwise prohibited. For example, if a linked deposit program has authorizing legislation and is established for the benefit of an economically disadvantaged class of persons, certain race/ethnicity information on minority-owned businesses may get permissibly collected.

The Community Reinvestment Act (CRA) requires a fair lending examination process in reviewing compliance with the Act's provisions. An examination of loan activity will answer whether the institution is lending inside or outside of its geographic area; whether it is lending to a broad base of customers; whether it is excluding low- or moderate-income areas; and whether it is responding to complaints. Large and small institutions have a slightly different evaluation process. A small institution is assigned one of the four statutory ratings.

- A "satisfactory" rating means that the institution meets the standard for each criterion (*i.e.,* reasonable loan to deposit ratio; majority of loans in assessment areas; reasonable borrower distribution; and good proportion of lending in low-, moderate-, middle-, and upper-income areas).

- A "needs to improve" or "substantial noncompliance" rating is assigned depending on the degree performance does not meet "satisfactory" standards.

- An "outstanding" rating is assigned if the institution's performance exceeds satisfactory standards.

Large financial institutions have a more extensive examination since they are evaluated based on a lending test, an investment test, and a community development and retail services test. A large financial institution is assigned one of five statutory ratings. They are the same ratings as with the small financial institutions, except there are two satisfactory categories (high satisfactory and low satisfactory). A Banker's Quick Reference Guide to CRA is provided as **Appendix 2**.

State and Local Small Business Assistance Programs: Access to Credit

On July 12, 2005, the task force heard from State and local small business assistance programs, including the Maryland Small Business Development Center, the Small Business Lending Section of the Department of Business and Economic Development, and the Prince George's Financial Services Corporation.

Small Business Development Center (SBDC)

For the past five years, SBDC has received 1,831 requests for loans from small businesses ($303.8 million), with about 70 percent of the number of requests approved (36 percent of dollar amount requested). During the same period, SBDC received 575 requests for loans from MBEs (does not include women-owned MBEs) ($178.7 million), with about 63 percent of the number of requests approved (48 percent of the dollar amount requested).

Overall, it appears that MBE applicants are being considered by lenders when they meet the institution's lending criteria. However, the main issues facing MBE loan applicants, in general, are undercapitalization, credit history, and lack of sufficient collateral. The inability to sufficiently collaterize a loan prevents many applicants from obtaining financing. There are few loan products that do not look at asset coverage. In general, MBEs do not have strong intimate networks to support asset coverage through equity injections or co-signing. Borrowers with low asset value need investors in order to qualify. Startup MBEs frequently do not have the personal or family resources required for business investment. Accordingly, many MBEs use their personal credit to fund aspects of their businesses. Consequently, their credit scores can be negatively impacted by "high" personal debt ratios. The owner's credit score is a major criterion used by financial institutions to determine loan eligibility.

Programs have been developed to minimize the perceived risk faced by lenders. Lenders are aware of Small Business Administration (SBA) guarantees and local agency guarantees. However, many smaller lenders will not use these programs for a "higher risk loan" due to the cost, paperwork, and reporting requirements. Larger lenders have streamlined SBA processing requirement by setting up "government lending units." However, they tend to use the SBA program more when interest rates are high. Small or micro-loans that do not require collateral frequently have higher interest rates. These loans range up to $25,000, and the maximum SBA guaranty for them is 50 percent.

Small Business Lending Section of the Department of Business and Economic Development (DBED)

DBED works in partnership with local governments and private sector organizations to develop and implement programs designed to assist businesses of all sizes, from small startup operations to large publicly-owned companies. DBED manages a variety of programs intended to encourage the development and growth of small and minority-owned businesses. DBED programs generally take the form of direct loans, loan guarantees, and technical and consulting support. DBED also makes workforce development assistance (training grants), and helps local governments to establish small business revolving loan funds. In addition, DBED contracts with a local private development and management firm, with particular expertise working with small and minority business clients, to provide specialized loan, loan guarantee, investment, and bonding assistance.

DBED agrees that small and minority businesses encounter difficulty in gaining access to capital and credit due to an inability to satisfy the more stringent credit quality criteria of traditional funding sources. DBED has a diverse array of resources intended to encourage, leverage, and enhance private lender participation in providing funding assistance to small and minority-owned business projects. **Appendix 3** provides a list of programs under DBED and also under the Department of Housing and Community Development that assist small business and MBEs in Maryland.

Prince George's Financial Service Corporation (FSC)

The Prince George's FSC is a lender of nontraditional financing for small and minority-owned businesses in Prince George's County. Founded in 1978, FSC provides access to creative, flexible, and innovative economic development financing solutions for small and minority-owned businesses by using various State, federal, and local financing programs to complement SBA programs and loans and credit facilities provided by commercial lending institutions. FSC was designated by SBA as a certified development corporation. FSC has strategic partnerships with Bank of America, BB&T, Chevy Chase Bank, Citizens National Bank, The Columbia Bank, Industrial Bank, M&T Bank, SunTrust Bank, Wachovia Bank, SBA, Meridian Management Group, Prince George's County Economic Development Corporation, and Redevelopment Authority of Prince George's County.

FSC offers two loan programs to assist local businesses with their financial needs: SBA 7(a) and SBA 504. Approximately 59 percent of all SBA 7(a) applications are from expanding companies, and 41 percent are from startup companies. Approximately 61 percent of all SBA 504 applications are from expanding companies, and 39 percent are from startup companies. Over 55 percent of the loans are to African American-owned companies; 12 percent to White-owned; 8 percent to African-owned; and the remainder to Hispanic-owned, Indian-owned, and Korean-owned.

FSC runs business education programs to teach business owners about sales and marketing, accounting, production planning, bidding, proposal writing, and finance. FSC also features a Small Business Growth Fund (SBGF) which provides nontraditional banking activity. The fund targets emerging businesses that cannot obtain conventional financing. Loans range from $25,000 to $250,000 and are offered to firms who are eligible under SBA 7(a). Loan proceeds can be used for working capital, leasehold improvements, and equipment. The SBA 504 loan program provides commercial loans for expanding businesses at below-market fixed-rate financing. The financing is for 20 years for real estate and 10 years for machinery and equipment. There is an equity requirement of at least 10 percent for the borrower. The financial institution provides 50 to 90 percent of the financing and is protected by a first lien, lending 50 percent of the value at market rate. Eligible borrowers include for profit business that have tangible net worth of up to $6 million and net profit after taxes of up to $2 million during the previous two years.

Banking Industry: Lending and Outreach to MBEs

On August 4, 2005, the task force heard from the banking industry regarding their lending practices and outreach efforts to MBE, including presentations by the Maryland Bankers Association, Industrial Bank, Bank of America, and M&T Bank.

Maryland Bankers Association (MBA)

MBA represents 120 commercial financial institutions and savings and loans doing business in Maryland. MBA discussed State and federal laws that prohibit lending discrimination, expressing concern about general accusations are made that financial institutions discriminate. Financial institutions are heavily regulated at several levels. The Commissioner of Financial Regulation, the Comptroller of the Currency, the Board of Governors of FRS, FDIC, and SBA are all involved in the regulation of financial institutions.

Lending is competitive in Maryland; and, therefore, financial institutions have extensive outreach efforts. MBA provided a list of 2004 small business loans statistics (see **Appendix 4**). Loans are under $1 million and are broken out by census tract and dollar amount of loans. The financial institutions are prohibited from obtaining information on race and ethnicity, but information regarding census tract can be used to extrapolate data. Of the small business loans, it is not clear how many are minority business loans. There are multiple definitions of small business, depending upon the agency that deals with small businesses and the context of the program. Accordingly, it is difficult to compare one agency's data on small business against the data from another agency or institution.

MBA also mentioned the various linked deposit programs, including the Department of Environment's Water Quality Linked Deposit Program and a program in Washington State. Linked deposit programs will be discussed later in the report.

Industrial Bank

Industrial Bank is 71 years old with six branches in Washington, DC and two in Prince George's County. The financial institution explained the difference between credit and venture capital. A financial institution that extends credit to a business (*i.e.,* a loan for operation of the business) gets in return the payment for the debt which begins immediately. According to Industrial Bank, financial institutions generally make a 1 percent return on their loans.

Generally, financial institutions do not provide startup funds. Investors that provide these funds receive in return equity or other investment in the company. Funds may be paid after a certain time period (*e.g.,* three years) and in some cases collateral is not required. Generally, the owner needs to have some net worth to qualify for venture capital funds. These transactions are more risky; therefore, the investor would want a high rate of return commensurate with the risk.

Industrial Bank stated that there may be pockets of discrimination in small business lending activity, but there is not institutional discrimination. There are huge penalties for board members if found to have discriminated.

Bank of America

Bank of America has made loans and investments of more than $4.5 billion in Maryland as part of a 10-year, $350 billion commitment to help strengthen communities nationwide. The financial institution agreed that it is difficult to define small business; however, the financial institution actively participates in making loans in this competitive field. The financial institution has to consider the effect of its lending practices on shareholders and depositors. The financial institution looks at a borrower's credit history, whether a borrower has about 20 percent of their own money in the business, whether there is collateral and a personal guarantee, the business management's experience, and the economic conditions and trends. MBA stated that each financial institution has its own risk tolerance level for lending; some are more conservative in their lending practices than others.

Bank of America has an outreach program that contributes to the community through literacy projects, small loans, and investment in community real estate projects (*e.g.,* Hippodrome).

M&T Bank

M&T Bank was founded in 1856 in New York as Manufacturers and Traders Trust Company and operates on a regional basis with over 650 branch locations and serving over 1.9 million customer households and more than 148,000 businesses. The financial institution is a full-service institution providing a range of products and services.

M&T Bank spoke about CRA and how a comparison among financial institutions can be made by census tract. MBA supports using data from CRA because it allows for a good comparison between financial institutions. M&T has 12 dedicated CRA officers who are active in building partnerships and ascertaining the needs of the communities where they do business. In 2003, the financial institution made 1,645 loans, totaling about $243 million. The financial institution has MBE contract relationships with the Greater Baltimore Committee, Maryland/DC minority contractors associations, Maryland Minority Supply Development Council, Montgomery County Women Business Ownership, National Association of Women Business Owners, Kairos Development Corporation, Collective Banking Group, Maryland Small Business Development Financing Authority, and Community Development Ventures.

Linked Deposit Programs

At the October 25, 2005, meeting the task force heard about the Department of the Environment's Water Quality Linked Deposit Program, the Department of Business and Economic Development's inactive linked deposit program, and the linked deposit program in Washington state.

Department of Environment (DOE): Water Quality Linked Deposit Program

DOE discussed its Water Quality Linked Deposit Program, which was established under Subtitle 1606-1 of Title 9 of the Environment Article and is administered by the Maryland Water Quality Financing Administration (MWQFA). The Maryland Water Quality Revolving Loan Fund Linked Deposit program is a source of low-interest rate loans to private borrowers (nongovernments) via financial institutions. The loans may be used for capital improvements to protect water-bodies from nonpoint source pollution. Examples of linked deposit loans include stormwater best management practices, repair or replacement of failing on-site septic systems, shoreline erosion controls, nutrient best management practices, brownfield site cleanup, and other water quality benefiting capital improvements on private land.

The term "linked" refers to the relationship between the below-market rate investment agreement between a participating financial institution and MWQFA resulting in a below-market interest rate loan from the financial institution to the borrower. For example, MWQFA makes a five-year investment deposit of $10,000 with a financial institution at 0.01 percent interest rather than the market certificate of deposit rate of 4 percent, resulting in an investment loss of 3.99 percent. In turn, the participating financial institution makes a five-year, $10,000 loan to a borrower, for an eligible project at an interest rate that is 3.99 percent below the financial institutions lending rate. MWQFA is repaid for the deposit plus its investment earnings.

An eligible financial institution, defined by statute, is determined by the Treasurer's office. About 14 financial institutions are eligible at this time. As of June 30, 2005, the linked deposit program had made loans totaling over $7 million for 83 projects. Loan funds include federal funds which are matched with State funds.

While the Treasurer has streamlined the number of participating financial institutions, MWQFA would like to increase the number of financial institutions for its program. A few years ago, there were over 40 eligible financial institutions. MWQFA would like to have a separate RFP from the RFP that the Treasurer issues for other State services.

Department of Business and Economic Development (DBED): Inactive Linked Deposit Program in the Maryland Industrial Development Financing Authority (MIDFA)

DBED discussed its inactive linked deposit program, which was established as part of MIDFA under Section 5-927 of Article 83A. The linked deposit program was originally established in the late 1980s. The program was used to stimulate the economic and employment growth of small businesses located in rural areas with a qualifying high unemployment rate. To participate, lenders must agree to provide an eligible business with a loan at below-market rates in exchange for having a certificate of deposit of equal value placed in their institution.

Before becoming inactive, the program made 9 transactions for about $2 million (in Garrett and Dorchester counties). The last one started in 1999 and matured in 2004. There are limitations in the program; that is, it is only available in rural or distressed jurisdictions based on an employment test. Last year, the program was expanded to include the same eligibility criteria as the definition for One Maryland. The program is purely an interest rate reduction (or decrease in rate to the business). The linked deposit program becomes more meaningful as interest rates increase. With low interest rates, the benefit to small businesses is negligible. Businesses need collateral to qualify for a loan. The lack of collateral is the primary reason businesses fail to qualify for a loan.

Other than its linked deposit program, MIDFA encourages private-sector financing in economic development projects through the use of insurance and the issuance of tax-exempt and taxable revenue bonds. Insurance reduces the lender's risk in a project to an acceptable level. The project must be in a priority funding area.

DBED has several other programs to assist small businesses and MBEs in Maryland (see **Appendix 3**), including:

- The Maryland Economic Development Assistance Authority Fund (MEDAAF) provides market long-term fixed rate financing through grants and loans. Applicants are restricted to businesses located within a priority funding area and an eligible industry sector. The maximum loan assistance cannot exceed the lesser of $10 million or 20 percent of the current fund balance.

- The Maryland Small Business Development Finance Authority (MSBDFA) provides financing to businesses unable to obtain financing from traditional lenders through loan guarantees, direct lending, surety bonds, and equity investments.

- The Maryland Economic Adjustment Fund (MEAF) assists entities in the State with the modernization of manufacturing operations, the development of commercial applications for technology and exploring and entering new markets. Applicants must demonstrate credit worthiness, ability to repay the obligation, and inability to obtain financing on affordable terms through normal lending channels. Maximum loan is $500,000.

DBED does not currently collect information in the application about whether an applicant is an MBE. To protect the confidentiality of the applicants, there are constraints as to what information may be requested. However, DBED aggressively seeks to assist small businesses.

Linked Deposit Program in Washington State

The Washington state's linked Deposit Program, established in 1993, directs the Treasurer to operate a program that links the deposit of state funds to loans made by financial institutions to certified minority and women-owned business enterprises. The state's funds are leveraged to encourage financial institutions to lend private funds to these businesses at below-market rates.

The program is authorized to invest up to $50 million (recently increased to $100 million) of the state's surplus treasury investment funds. The financial institution, in turn, makes loans to certified MBEs. The deposit of state funds with a financial institution is done by purchasing a timed certificate of deposit (CD) in an amount equal to the dollar amount of the loan made to an MBE borrower. The state then forgoes 2 percent in interest earnings on the CD, which is passed onto the MBE borrower in the form of an interest rate reduction of up to 2 percent. Under the $50 million investment, the cost to the state was approximately $1.2 million.

Workgroups

Criteria Workgroup

The Criteria Workgroup, chaired by Dargeelyn Loftin (MBE owner), met several times, including one conference call. Generally, in attendance at these meetings were Vera Holman (MBE owner), Delegate Jeannie Haddaway, Bernadette Benik (representative of the Treasurer's office), Gordon Cooley (representative of the banking industry), Kathleen Murphy/D. Robert Enten (Maryland Bankers Association), and Tami Burt/Ryan Wilson (task force staff). There were no formal votes taken at the workgroup meetings.

On August 30, 2005, the workgroup presented its initial report to the task force. After further discussions, the workgroup presented its updated report at the September 13, 2005, meeting. A chart of the workgroup's recommendations are provided as **Appendix 5**.

The workgroup summarized its discussions as follows:

Banking Evaluation Criteria: In evaluating financial institutions, the Treasurer assigns a weight for certain factors. The weight assignment on the most recent banking RFP was 75 percent technical and 25 percent financial (price). To allow the Treasurer's office flexibility, the Treasurer's office would prefer not to specify the weight assignment in statute; a different weight assignment was used in the prior RFP and, depending on certain factors, a different weight assignment may be used in future RPFs.

The workgroup proposed changing the breakdown to include an "equity component" (the financial institution's experience and activities serving MBEs): at 70 percent technical, 15 percent financial, and 15 percent equity. Based on comments from the Treasurer's office not to decrease the weight assignment for the financial component, another proposed breakdown was suggested: technical at 65 percent, financial at 25 percent, and equity at 10 percent. Proposed equity evaluation criteria would include the following factors: (1) lending discrimination violations; (2) CRA ratings/reports; (3) participation in State and federal lending programs to small and minority-owned businesses; (4) outreach to small and minority-owned businesses; and (5) strategic partnerships established and participation level with entities whose mission is to provide technical assistance to small and minority-owned business.

Discrimination Violations: If a financial institution violated anti-discrimination laws as determined by a federal and/or State regulator or investigator, the financial institution would be eliminated from providing services to the State. There was discussion about including settled or pending discrimination claims. The workgroup finally decided to recommend that only final determination violations would be considered and suggested a point system for Maryland violations.

CRA Ratings/Reports: If a financial institution had an overall score of "Needs Improvement" or "Substantial Noncompliance," the financial institution would be eliminated from consideration providing services to the State. If a large financial institution had a lending test score of "Needs Improvement" or "Substantial Noncompliance," the financial institution would be eliminated from providing services to the State. The workgroup later decided to allow for a point system, depending on the overall score, and not outright to eliminate a financial institution for a particular overall score. Financial institutions would be required to submit their latest CRA Report to the Treasurer when responding to an RFP.

Small/Minority Business Credit/Lending Programs: A financial institution would be evaluated based on its participation level with federal and State lending programs, such as SBA 7(a) and SBA 504. The financial institution would receive incentive points for the level of participation. Financial institutions would be required to submit a list of their activities to the Treasurer when responding to an RFP.

Small/Minority Business Outreach and Technical Assistance: A financial institution would be evaluated based on its outreach, technical assistance, and training programs. The financial institution would receive incentive points for the level of participation. Financial institutions would be required to submit a list of their activities to the Treasurer when responding to an RFP.

Small Business Development Offices Partnerships: A financial institution would be evaluated based on the number of strategic partnerships established and participation level with small business development offices and other entities. The financial institution would receive incentive points for the level of participation. Financial institutions would be required to submit a list of their activities to the Treasurer when responding to an RFP.

Linked Deposit Program: A financial institution would be evaluated based on its participation level with State linked deposit programs. The financial institution would receive incentive points for the level of participation. The workgroup later decided to recommend that a linked deposit program should not be part of the evaluation criteria but could be used as an incentive for financial institutions to increase lending to small and minority-owned businesses.

GOMA Customer Satisfaction Survey Results: GOMA would conduct a customer satisfaction survey. A financial institution would be evaluated based on the consolidated survey results. The survey would have questions focused on the small and minority-owned businesses' lending satisfaction with financial institutions that do business with the State. The financial institution would receive incentive points for its level of participation. The workgroup later eliminated this item from consideration.

Report on Commercial Loans to Maryland Businesses: A financial institution would be evaluated based on the number of applications from businesses by the central bidder registration identification number (CBRID); dollar amount of loan requests from businesses by CBRID; dollar amount of loans to businesses by CBRID; and number of loans originated to business by

CBRID. The financial institution would receive incentive points for the level of participation. The workgroup later eliminated this item from consideration since it is unclear how the CBRID will be used.

Data Collection Workgroup

The Data Collection Workgroup, chaired by Franklin Lee, met one time. In attendance at this meeting were John Petty (GOMA Representative), D. Robert Enten (Counsel to Maryland Bankers Association), Franklin Lee (Centralized Bidder Registration Task Force Representative), and Tami Burt (task force staff). There were no formal votes taken at the workgroup meeting. On September 13, 2005, the workgroup presented its report to the task force.

The workgroup summarized its discussions as follows:

Key Terms: The final report of the task force should include a section that defines key terms, to avoid confusion among the public and policymakers regarding the selection of proposed data collection methods and evaluation criteria for selection of financial institutions. They would be terms related to banking and various forms of capital and discrimination. The definition of "discrimination" should be derived from the definition from the Equal Credit Opportunity Act.

Criteria Evaluation of Bank Performance in Making Loans and Issuing Credit: The workgroup discussed including the following as criteria: (1) efforts by financial institutions to facilitate lending to small businesses (including descriptions in proposals of their outreach efforts and participation in small business lending programs); (2) CRA ratings (an overall unsatisfactory rating should disqualify a financial institution from consideration); (3) violations of federal, State, or local laws prohibiting discrimination in lending within the last four years as indicated by a final adjudication or settlement or consent decree; and (4) mandatory agreement to participate in a linked deposit program similar to that adopted by Washington State.

Other discussion items included:

Customer Satisfaction Survey: The workgroup discussed using rankings from a commercial banking customer satisfaction survey administered by the State to its vendors and contractors to assess how financial institutions are perceived by all State vendors, including minority vendors that bid on State contracts. This survey would identify which financial institutions have been approached or used by each State bidder and would address certain criteria, including the financial institution's outreach efforts, quality of technical assistance provided, quality of service, accommodation of commercial credit needs, and adequacy of credit terms offered. GOMA could collaborate with the Department of General Services or the Treasurer's office to retain a survey firm to conduct the survey the year prior to the State's bid for financial services.

Self-testing: The workgroup discussed the submission of documentation by financial institutions to show whether the financial institutions regularly implement "self-testing" procedures to guard against discriminatory practices consistent with ECOA. This criterion could permit additional bonus points to be assigned in the evaluation process to those financial institutions that demonstrate satisfaction of this self-testing requirement.

***Commercial Loan and Credit Applications*:** The workgroup discussed a ranking of financial institutions based on the percentage of commercial loan and credit applications received by the financial institutions from State vendors and MBEs. This ranking would result in a sliding scale of points to be assigned in the evaluation process where the financial institution with the highest number of applications would be given the highest number of points for this criterion, and the institution with the fewest number of applications would receive the lowest number of available points for this criterion. (The objective is to reward strong outreach efforts.)

Loan or Credit Issued to State Vendors and State MBEs: The workgroup discussed a ranking of financial institutions based on the amount of money lent to State vendors and MBEs that bid on State contracts. This ranking would result in a sliding scale of points to be assigned in the evaluation process where the financial institutions with the highest dollar amounts of credit issued or the number of loans issued to vendors (or with the highest percentage of their overall loan dollars going to vendors) would be given the highest point totals for this criterion. (The objective is to reward performance in commercial lending to State vendors and MBEs that bid on State contracts.)

Work Sessions and Task Force Recommendations

The task force held work sessions on August 30, September 13, October 11, October 25, and November 29. The various topics of discussion at the work sessions are summarized in this section of the report. The votes taken by the task force are indicated by topic.

The task force requested that MBA seek guidance from its board of directors and representatives of financial institutions that hold the State financial services contracts about the topics that the task force was discussing. Accordingly, MBA presented its comments at the October 11, 2005, meeting. Comments from MBA are provided below where comments were made.

Weight of Banking Evaluation Criteria

Currently, in weighing its evaluation of whether to use a financial institution, the Treasurer grants 75 percent of the weight to technical factors and 25 percent to financial factors (price). The Treasurer may adjust this weight assignment in the future and, therefore, prefers not to have the weight assignment specified in statute; in prior RFPs, a different weight assignment was used.

Discussion focused on whether to include an "equity" component in the banking evaluation criteria and to what extent. The "equity" component is the financial institution's experience and activities in providing lending to minority businesses. The task force members generally felt that an "equity" component should be included to some extent. One option discussed was 70 percent technical; 15 percent financial; and 15 percent equity. The Treasurer suggested allowing the Treasurer's Office to expand its RFP evaluation panel. Currently, the panel consists of representatives of the Treasurer's Office, the Comptroller's Office, and several user agencies. At the time of developing an RFP, a panel including other regulatory groups that have expertise and that are not in conflict with participating in the RFP could convene to discuss ensuring that the RFP incorporates an equity component that can be measured during the selection process. The Treasurer's office expressed concern with decreasing the percent for the financial component. The financial component pertains to the price the State pays for the financial institution services. To keep bids competitive, the Treasurer's office felt that this component should stay at 25 percent. Other options discussed were 60 percent technical, 25 percent financial, and 15 percent equity; and 65 percent technical, 25 percent financial, and 10 percent equity. There was also discussion as to how to handle a financial institution that does not make commercial loans, such as Dresner Bank.

As described below, the task force discussed including the following factors which would be considered for the "equity" component: (1) lending discrimination violations; (2) CRA ratings/reports; (3) participation in State and federal lending programs to small and minority-owned businesses; (4) outreach to small and minority-owned businesses; and (5) strategic partnerships established and participation level with entities whose mission is to provide technical assistance to small and minority-owned business. The task force discussed that the linked deposit program was a "side issue" and not as part of the evaluation criteria because the Treasurer would have to approve any financial institution that participates in a linked deposit program.

Comments from MBA

The banking industry, unlike any other industry that enters into contracts with the State, is held accountable by State and federal banking regulators to ensure that the lending process is a fair and equitable. No other industry with which the State enters into contracts is held to the same level of scrutiny. It is difficult to legislate a one-size-fits-all approach to State financial service contracts, given the variety of sizes and product offerings and geographic areas that financial institutions serve. In addition, different types of financial institution charters dictate the volume and types of lending a financial institution may do (*i.e.,* consumer lending, mortgage lending, commercial lending). Some entities that bid on State financial service contracts do not make loans; accordingly, MBA is concerned that the bid process would not be a fair one as those that lend would be held to a different standard than those that do not. The Treasurer must be given the flexibility to recognize the variety of institutions that exist within the financial services industry.

Task Force Vote: The Treasurer should include an assessment of a financial institution's activities in the minority business community – an "equity component." Technical factors would receive 60 percent of the Treasurer's consideration, financial factors would continue to receive 25 percent, and equity factors would receive 15 percent.

Ranking System

There was discussion about how small and large financial institutions would be compared if there were a ranking system. Concerns were expressed as to how a ranking system would work since large financial institutions serve customers differently from small financial institutions.

Comments from MBA

The banking industry does not support the creation of a legislative-mandated rating system for financial institutions that submit the evaluation criteria. MBA is not aware of any precedence for legislating mandatory weighting factors for procurements. Concerns were expressed as to who would have the expertise to establish the rating system and the basis on which it would be applied. A legislative-mandated rating system would deprive the Treasurer of the flexibility needed to choose the best financial institution to provide complex financial services for the State.

Task Force Vote: The task force did not take a formal vote.

Lending Discrimination Violations

The task force discussed whether there is discrimination in lending to small and minority-owned businesses. The task force did not make a determination as to whether there is evidence of a problem; however, the task force generally agreed that there is a perception that lending discrimination is real.

Pertaining to the discussion regarding the existence of lending discrimination, it was mentioned that there is a January 8, 2001, report called the *Utilization of Minority Business Enterprises by the State of Maryland* by the National Economic Research Associates (NERA) that was prepared for the Maryland Department of Transportation. The report suggests that there is evidence that minority-owned firms, particularly firms owned by African Americans, are discriminated against in the market for credit. Mr. Lee also mentioned an October 2004 report by the National Community Reinvestment Coalition called *Inequalities in Small Business Lending by Income and Race of Neighborhood.* The report suggests that there are striking disparities in small business lending by race and income of neighborhood. There is a concern that these disparities occur at a time when there has been discussion about weakening the regulations implementing the CRA, a law that is aimed at prohibiting lending discrimination against neighborhoods.

There was discussion about "discrimination" being used as banking evaluation criteria. The proposal explained by the Criteria Recommendation Workgroup suggested that a financial institution would be eliminated from consideration if a financial institution was found to have violated federal or State discrimination laws. Concern was expressed about eliminating a financial institution that was found to have violated a discrimination law in another state. National financial institutions may operate in a number of states, while State financial institutions may operate only in Maryland. In the RFP process, the financial institution would provide information regarding its violations in Maryland and other states. The Treasurer's office was concerned as to how to verify this information. The task force discussed giving the highest weight for any violation in Maryland, but giving the Treasurer discretion with violations in other states.

Another concern expressed was whether it is constitutional to eliminate a financial institution that has served a discrimination penalty from consideration in participating in an RFP to provide financial services to the State. According to Supreme Court case law, "double jeopardy" does not apply in this situation in the case of an administrative or civil sanction.

Various options were presented including consideration of settled or pending discrimination claims. However, the task force generally felt that consideration of these types of claims would not be fair to the financial institution. The task force also discussed how to handle the situation where a financial institution acquires another financial institution that has had a lending discrimination violation. Generally, the task force felt that the acquiring financial institution should not be penalized for prior activities of an acquired entity. Through the RFP process, financial institutions would disclose this information. The task force discussed consideration of violations during the past five-year time period as being reasonable and consistent with other parts of State law.

Comments from MBA

The banking industry strongly objects to allegations that institutional discrimination is occurring in commercial lending. These allegations have been based on an outdated and flawed study prepared by NERA in 2001. The study contains data that are 12 – 34 years old and fails to examine key factors in making small business loans. It also makes irrelevant comparisons between small business loans, credit card approvals, and mortgage lending. MBA was not requested to participate in the Lt. Governor's Commission on Minority Business Enterprise Reform, which drew these flawed conclusions from NERA's study without the perspective from the banking industry. In concept, MBA can support giving the Treasurer the ability to consider final adjudicated lending discrimination claims in Maryland.

Task Force Vote: The Treasurer should consider whether a financial institution has had lending discrimination violations. In this regard, the Treasurer should consider final adjudicated lending discrimination violations that were filed in Maryland during the five years prior to response to the RFP. The Treasurer may use discretion in considering final adjudicated lending discrimination violations that were filed in other states during the five years prior to response to the RFP. The Treasurer may determine how to assess a lending discrimination violation by an affiliate or entity acquired by the financial institution.

Centralized Bidder Registration Number (CBRID)

There was discussion about the use of a CBRID. At the time of the task force deliberations, the Governor's office has not publicly issued a report of the Governor's Task Force on Centralized Bidder Registration for Minority Business Procurement (CBR). It is not clear whether the report will indicate what information will be collected from MBEs when a CBRID is assigned to it. Concerns were raised by the financial institutions about confidentiality issues if financial institutions are required to request that a borrower provide its CBRID. If the financial institution reports to the Treasurer on its lending activity for borrowers who have a CBRID, it is not clear whether the identity of the borrower would remain confidential.

Another concern about using a CBRID was expressed. Financial institutions that do not lend or did not lend to a business with a CBRID would be compared to those financial institutions that were able to lend to businesses with a CBRID. The financial institution that did not lend to a business with a CBRID may still be lending to MBEs, but it may not happen to lend to MBEs that do business with the State (and therefore, these MBEs would not have a CBRID).

Task Force Vote: Since the recommendations of the CBR Task Force are not publicly available, the task force voted that it will not consider the use of a CBRID.

Community Reinvestment Act (CRA) Ratings

There was discussion about a CRA rating being used as part of the banking evaluation criteria. **Appendix 6** provides a list of states that consider the CRA rating of a financial institution in deciding whether to deposit public funds in that financial institution.

At this time, no State financial institution has a rating below "satisfactory." Only one financial institution had a "needs to improve" rating from a 2004 examination. Prior to that time, three financial institutions had this rating from a 2001 examination, and only one had this rating from a 2000 examination Only one financial institution had a "substantial noncompliance" rating from a 2002 examination; this same financial institution had this rating from several prior year examinations.

Various options were discussed regarding CRA ratings, including eliminating a financial institution from consideration if the financial institution had a "substantial noncompliance" or "needs improvement" rating. Generally, the task force felt that the Treasurer should consider the rating, but there should not be an outright elimination of a financial institution from consideration if the financial institution had a low rating.

Concern was expressed that the overall CRA rating for financial institutions that operate in multiple states would not provide a good indication as to how the financial institution operates in Maryland. Ratings are not provided on a state level. However, within the assessment area section of the CRA report, additional information is provided on a regional basis. An example of the section of a CRA Report is provided in **Appendix 7**.

Each financial institution is subject to a CRA examination every three years. Therefore, the task force discussed that the most recent rating would be the most useful and should be submitted to the Treasurer in an RFP response.

Comments from MBA

In concept, MBA supports giving the Treasurer the ability to review CRA ratings and reports.

Task Force Vote: CRA is intended to encourage depository financial institutions to help meet the credit needs of the communities in which they operate. Financial institutions are rated on their lending activities. The Treasurer should consider whether the financial institution has a

CRA rating of "substantial noncompliance" or "needs improvement" from its most recent examination. Further, for financial institutions that operate in multiple states, the Treasurer should consider Maryland-specific information that is provided within the assessment area section of the CRA report.

Participation in State and Federal Lending Programs

There was discussion about a financial institution's participation in State and federal lending programs being used as banking evaluation criteria. There are numerous programs under DBED, as well as federal programs such as SBA. To be consistent, the task force discussed whether the Treasurer should consider the financial institution's participation during the past five years.

Comments from MBA

In concept, MBA supports giving the Treasurer the ability to review participation in State and federal lending programs to small and minority-owned businesses with the flexibility to provide information about the loan programs in which they participate, even though they may not be specific SBA or State programs.

Task Force Vote: The Treasurer should consider whether a financial institution has successfully made loans through State and/or federal lending programs offered in Maryland to small and minority-owned businesses during the five years prior to a response to an RFP.

Outreach Programs

There was discussion about a financial institution's participation in outreach programs being used as banking evaluation criteria. To be consistent, the task force discussed whether the Treasurer should consider the financial institution's outreach efforts during the past five years.

Comments from MBA

In concept, MBA supports giving the Treasurer the ability to review financial institution outreach to small and minority-owned businesses, including technical assistance and training programs.

Task Force Vote: The Treasurer should consider whether a financial institution demonstrates that it has an active outreach program to small and minority-owned businesses in Maryland during the five years prior to a response to an RFP.

Strategic Partnerships with Technical Assistance Entities

There was discussion about a financial institution's participation in strategic partnerships with technical assistance entities being used as banking evaluation criteria. To be consistent, the task force discussed whether the Treasurer should consider the financial institution's partnership efforts during the past five years.

Comments from MBA

In concept, MBA supports giving the Treasurer the ability to review the number of strategic partnerships established and participation level with entities whose mission is to provide technical assistance to small and minority-owned businesses, such as the Small Business Development Centers. MBA members were concerned that specifying that strategic partnerships had to be with Small Business Development Centers (SBDCs) would preclude financial institutions that do not have SBDCs in their market area from bidding on State contracts. MBA also suggested that using the past three years' data should be sufficient. Concern was expressed that providing data from too far back would be labor intensive.

Task Force Vote: The Treasurer should consider whether the financial institution demonstrates that it has established strategic partnerships and participates with entities whose mission is to provide technical assistance to small and minority-owned business during the five years prior to a response to an RFP.

Customer Satisfaction Survey

There was discussion about whether a customer satisfaction survey should be used as part of the banking evaluation criteria. Concern was expressed as to how a customer satisfaction survey would work. Initial discussions focused on the survey being conducted by GOMA to MBEs that have State contracts on their experiences with Maryland financial institutions. Later discussion focused on an internal customer satisfaction survey by each financial institution to small businesses that the financial institution serves. The Treasurer could consider the results of the financial institution surveys at various levels, depending on the gross sales of the small businesses. After discussion in a work session, the task force generally felt that the survey may be too subjective and should not be included in the banking evaluation criteria. However, some of the task force members felt that GOMA should incorporate a survey as part of its duties.

Comments from MBA

MBA expressed concern about having the financial institutions do a customer satisfaction survey. Internal surveys are generally conducted so that a business can evaluate itself and make internal improvements. Financial institutions would not want to make their surveys public. Since there would be a mix of customers responding, it is unclear how the surveys would be tallied and whether the survey would be objective. No other business is required to share its private internal surveys with a third party.

Task Force Vote: The task force did not take a formal vote.

Linked Deposit Program

The task force discussed whether to recommend that the State establish a linked deposit program to encourage increased lending to the minority business community. Under a linked deposit program, generally a financial institution underwrites loans to eligible minority-owned businesses, and the State and the financial institution enter into an investment agreement for a sum equal to the amount of the loans. The State takes a lower than usual interest rate on its deposits with that financial institution in return for the financial institution's below-market rate loans to minority-owned businesses.

Discussion focused on the active program in Washington State. Last year, the state deposited $50 million in financial institutions that were eligible to provide linked deposits. This year, the state intends to increase that amount to $100 million. There was discussion as to who would be the administrator of a State program. Specifics of the program need to be considered, including amount of interest rate (*e.g.*, below-market); loan amount (*e.g.*, up to $250,000); State funding amount; criteria for a business to obtain a loan (*e.g.*, register with the State for tracking purposes); and marketing efforts. There was discussion as to whether a recommendation regarding a linked deposit program was in the task force's charge. Many felt that even if it were not in the charge, the task force could make a recommendation.

Since there are other types of linked deposit programs than the program offered in Washington State, at the October 25 work session the task force referred to a workgroup (consisting of the chair of the Criteria Workgroup and the chair of the Data Collection Workgroup) the question of what attributes a linked deposit program should have. Accordingly, the Linked Deposit Workgroup developed a proposal with recommendations for the administration of the program, loan amounts and terms, loan pool size, and underwriting standards. A detailed description of the workgroup recommendations (presented to the task force on November 29), including a summary of linked deposit programs in other states, appears in **Appendix 8.**

While it generally supported the idea of a linked deposit program, the task force did not support the workgroup recommendations. Several concerns were raised over the recommendations, including the proposed criteria for the program's administrator and the proposal that depository institutions be required to fund the loan pool.

Comments from MBA

MBA has verbally stated that MBA supports establishment of a linked deposit program (similar to the program offered in Washington State) as an incentive for financial institutions to increase their lending to MBEs.

Task Force Vote: Although specifics were not provided by the task force, the State should consider the creation of a linked deposit program as part of a lending equity strategy to increase lending to MBEs.

Small Business Development Funding

The Maryland Small Business Development Center (SBDC) is a program of the University of Maryland Center for Applied Policy Studies, the United States Small Business Administration (SBA) and DBED. SBDC assists small businesses get started and expand by providing a variety of management and technical assistance programs. This cooperative agreement is partially funded by the U.S. Small Business Administration. SBDC will receive the full amount of $1.4 million in federal funds if the State provides a 50 percent match. Current level of State funding is $250,000; however, legislation enacted during the 2005 session requires the Governor to appropriate $750,000 for SBDC for each fiscal year beginning with fiscal 2007. At the November 29 meeting, a recommendation was made by a task force member concerning the need to increase the funding level for SBDC. Without discussion, the task force agreed that the funding level needs to be increased.

Task Force Vote: The task force recommends that the State increase funding to small business development centers around the State and look at other measures to increase small business development funding within DBED.

Legislation

A copy of the legislation that implements the task force's recommendation is provided in **Appendix 9**.

Appendix 1

UNOFFICIAL COPY OF SENATE BILL 324

P1
HB 1165/01 - CGM

4lr1832
CF 4lr0531

By: **Senator Jones (By Request - Governor's Commission on Minority Business Enterprise Reform) and Senators Britt, Conway, Currie, Exum, Gladden, Grosfeld, Hughes, and Lawlah**
Introduced and read first time: February 2, 2004
Assigned to: Budget and Taxation

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 30, 2004

CHAPTER______

AN ACT concerning

~~State Treasurer – Selection of Financial Institutions~~
Task Force on Lending Equity within Financial Institutions Providing State Depository Services

FOR the purpose of ~~requiring certain financial institutions to submit a certain report to the Commissioner of Financial Regulation and the State Treasurer; specifying the contents of the report; altering the criteria the State Treasurer must consider prior to selecting a financial institution as a depositary to include the extent of commercial loans made to certain minority business enterprises; prohibiting the State Treasurer from selecting certain financial institutions as depositaries; and generally relating to the selection of a financial institution as a depositary by the State Treasurer~~ establishing a Task Force on Lending Equity within Financial Institutions Providing State Depository Services; providing for the purpose of the Task Force; providing for the composition, co-chairmen, and staff of the Task Force; providing that the members of the Task Force may not receive compensation, but may be reimbursed for certain expenses; providing for the duties of the Task Force; requiring the Task Force to submit certain reports to the Governor and to the General Assembly on or before certain dates; providing for the termination of this Act; defining certain terms; and generally relating to the Task Force on Lending Equity within Financial Institutions Providing State Depository Services.

~~BY adding to~~
~~Article – Financial Institutions~~
~~Section 1-207~~

~~Annotated Code of Maryland~~
~~(2003 Replacement Volume)~~

~~BY repealing and reenacting, with amendments,~~
~~Article - State Finance and Procurement~~
~~Section 6-207~~
~~Annotated Code of Maryland~~
~~(2001 Replacement Volume and 2003 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That ~~the Laws of Maryland read as follows~~:

(a) In this Act, the following words have the meanings indicated:

(1) (i) "Minority business enterprise" means any legal entity, except a joint venture, that is:

1. organized to engage in commercial transactions;

2. at least 51% owned and controlled by one or more individuals who are socially and economically disadvantaged; and

3. managed by, and the daily business operations of which are controlled by, one or more of the socially and economically disadvantaged individuals who own it.

(ii) "Minority business enterprise" includes a not for profit entity organized to promote the interests of physically or mentally disabled individuals.

(2) "Lending equity policy" means a policy that links the performance of a financial institution in providing adequate access to credit and capital for minority business enterprises with the selection of the financial institution as a depository.

(b) There is a Task Force on Lending Equity within Financial Institutions Providing State Depository Services.

(c) The purpose of the Task Force is to:

(1) develop meaningful criteria for evaluating minority business enterprises' access to credit and capital from financial institutions providing or desiring to provide depository services to the State; and

(2) advise the State Treasurer on developing additional or supplemental criteria to be considered in the selection of a financial institution as a depository.

(d) The Task Force consists of the following members:

(1) two members of the Senate of Maryland, appointed by the President of the Senate;

(2) two members of the House of Delegates, appointed by the Speaker of the House;

(3) the State Treasurer or the Treasurer's designee;

(4) the Commissioner of Financial Regulation or the Commissioner's designee;

(5) one representative of the Governor's Office of Minority Affairs, appointed by the Governor;

(6) one representative of the Governor's Council for Historically Underutilized Businesses, appointed by the Governor;

(7) one representative of the Governor's Task Force on Centralized Bidder Registration for Minority Business Procurement, appointed by the Governor;

(8) two representatives of the banking industry, appointed by the Maryland Bankers Association;

(9) two owners of a minority business enterprise, appointed by the Governor;

(10) one representative of the commercial insurance bonding industry, appointed by the Governor; and

(11) one member of the public with State and national experience in financial regulation and fair lending practices, appointed by the Governor.

(e) The President of the Senate and the Speaker of the House shall jointly appoint co-chairmen from among the Senate and House members appointed to the Task Force.

(f) The Treasurer's Office and the Department of Legislative Services shall jointly provide staff for the Task Force.

(g) A member of the Task Force may not receive compensation for serving on the Task Force, but is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(h) The Task Force shall:

(1) identify appropriate data, such as a State Centralized Bidder Registration Number, that would demonstrate whether financial institutions are providing adequate access to credit and capital for minority business enterprises;

(2) advise the State Treasurer in developing additional or supplemental criteria to be considered in the selection of a financial institution as a depository that ensures that such institutions provide adequate opportunities for access to credit and capital for minority business enterprises; and

(3) develop a strategy to implement a lending equity policy, which may incorporate the findings of the Governor's Task Force on Centralized Bidder Registration for Minority Business Procurement.

(i) (1) The Task Force shall submit reports, in accordance with paragraph (2) of this subsection, on its findings and recommendations to the Governor, and in accordance with § 2-1246 of the State Government Article, to the General Assembly.

(2) The Task Force shall submit:

(i) an interim report, on or before December 1, 2004, that defines a strategy to implement a lending equity policy and may incorporate the findings of the Governor's Task Force on Centralized Bidder Registration for Minority Business Procurement; and

(ii) a final report on or before September 1, 2005.

~~Article - Financial Institutions~~

~~1-207.~~

~~(A) THE COMMISSIONER SHALL REQUIRE EACH BANKING INSTITUTION, NATIONAL BANKING ASSOCIATION, OR OTHER STATE BANK SUBJECT TO REGULATION BY THE STATE TO SUBMIT TO THE COMMISSIONER AND THE STATE TREASURER A VERIFIABLE ANNUAL REPORT ON HIGHER EDUCATION LOANS AS DESCRIBED UNDER TITLE 18, SUBTITLE 10 OF THE EDUCATION ARTICLE AND COMMERCIAL LOANS TO MINORITY BUSINESS ENTERPRISES AS DESCRIBED UNDER TITLE 14, SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

~~(B) THE ANNUAL REPORT SHALL INCLUDE:~~

~~(1) THE TOTAL NUMBER OF HIGHER EDUCATION LOAN APPLICATIONS THE INSTITUTION RECEIVED AND PROCESSED FOR THE YEAR;~~

~~(2) THE CUMULATIVE NUMBER OF HIGHER EDUCATION LOANS APPROVED BY THE INSTITUTION FOR THE YEAR;~~

~~(3) THE CUMULATIVE DOLLAR AMOUNT GIVEN BY THE INSTITUTION FOR HIGHER EDUCATION LOANS FOR THE YEAR;~~

~~(4) THE TOTAL NUMBER OF MINORITY BUSINESS ENTERPRISE COMMERCIAL LOAN APPLICATIONS THE INSTITUTION RECEIVED AND PROCESSED FOR THE YEAR;~~

~~(5) THE CUMULATIVE NUMBER OF MINORITY BUSINESS ENTERPRISE COMMERCIAL LOANS APPROVED AND PROCESSED BY THE INSTITUTION FOR THE YEAR; AND~~

~~(6) THE CUMULATIVE DOLLAR AMOUNT GIVEN BY THE INSTITUTION FOR MINORITY BUSINESS ENTERPRISE COMMERCIAL LOANS FOR THE YEAR.~~

~~**Article – State Finance and Procurement**~~

~~6-207.~~

~~(A) Before using a financial institution as a depositary, the Treasurer shall consider the extent to which the financial institution [makes] MAKES:~~

~~(1) higher education loans under Title 18, Subtitle 10 of the Education Article; AND~~

~~(2) COMMERCIAL LOANS TO MINORITY BUSINESS ENTERPRISES IN EACH OF THE GROUPS DESCRIBED UNDER § 14-301(F) OF THIS ARTICLE.~~

~~(B) THE TREASURER MAY NOT DESIGNATE A FINANCIAL INSTITUTION AS A DEPOSITARY IF:~~

~~(1) THE FINANCIAL INSTITUTION FAILS TO TRUTHFULLY AND ACCURATELY COMPLY WITH THE ANNUAL REPORTING REQUIREMENTS DESCRIBED UNDER § 1-207 OF THE FINANCIAL INSTITUTIONS ARTICLE; OR~~

~~(2) THE FINANCIAL INSTITUTION HAS BEEN FOUND, THROUGH AN ADMINISTRATIVE OR JUDICIAL PROCESS, TO HAVE DISCRIMINATED IN ITS LENDING PRACTICES ON THE BASIS OF RACE, GENDER, OR NATIONAL ORIGIN.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2004. It shall remain effective for a period of 1 year and 3 months and, at the end of September 30, 2005, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Appendix 2

A Banker's Quick Reference Guide to CRA

This publication is a guide to the CRA regulation and examination procedures. It is intended for bank CEOs, presidents, and CRA and compliance officers as a tool for accessing CRA information quickly. Regulation BB and agency examination procedures should be referred to for more detailed information.

Large Banks—Lending Test

Performance Standards

Number and amount of loans in the assessment area(s)

Geographic distribution of loans
- proportion of loans in assessment area(s)
- dispersion of lending in assessment area(s)
- number and amount of loans by geography classification (low-, moderate-, middle- and upper-income)

Distribution based on borrower characteristics
- number and amount of home mortgage loans to low-, moderate-, middle- and upper-income individuals
- number and amount of small business and small farm loans by loan amount at origination and to small businesses and small farms with gross annual revenues of $1 million or less
- (optional) number and amount of consumer loans to low-, moderate-, middle- and upper-income individuals

Community development loans
- number and amount
- complexity and innovativeness

Innovative or flexible lending practices

(Optional) affiliate lending and lending by a consortium or third party will be considered

Examiner Review

Identify loans to be evaluated by reviewing
- HMDA and CRA disclosure statements
- interim HMDA and CRA data collected
- sample of consumer loans (if a substantial majority of business)
- other loan information provided by the bank

Verify accuracy of loan data collected and/or reported
- affiliate loans may be claimed by only one affiliate
- community development loans meet definition
- the amount of third party, consortia or affiliate lending may not account for more than the percentage share of the bank's participation or investment
- if reported, consumer loans must include all loans in a particular category (*i.e.*, motor vehicle)

Evaluate lending volume both in number and dollar amount of loans within the assessment area for each type of loan, giving consideration to the performance context

Analyze the geographic distribution of lending
- review information provided by the bank for insight into the reasonableness of its geographic distribution
- perform independent analysis as necessary. The analysis should consider number and dollar volume of loans:
  - made inside and outside assessment area
  - made in each geography and each income category of geography.
  - by number of geographies penetrated in each income category
  - for housing in each geography compared with the number of housing units in each geography
  - for small businesses or farms in each geography compared with the number of small businesses or farms in each geography
  - for any gaps in lending activity for each income category by identifying groups of contiguous geographies that have no or low loan penetration relative to the other geographies
- if contiguous geographies have abnormally low penetration, the examiner may compare the bank's performance with that of other area lenders. Note: Banks are not required to lend in every geography.

Analyze distribution of lending by borrower characteristics
- review information provided by the bank for insight into the reasonableness of its lending distribution
- supplement with independent analysis of lending distribution by borrower characteristics as necessary and applicable, giving consideration to the number and dollar volume of loans:
  - for home mortgages made to low-, moderate-, middle- and upper-income borrowers, and make a percentage comparison of total home mortgage loans with the population in each income category
  - made to small businesses or farms by loan size of $100,000 or less, more than $100,000 but less than or equal to $250,000 and more than $250,000
  - made to small businesses or farms having annual revenues of less than $1 million and compare with total small business and farm lending
  - made outside the assessment area if borrowers within the assessment area are adequately served and it would enhance the assessment of the bank's performance

Review community development lending to determine the community development lending opportunities, the bank's responsiveness and the extent of its leadership

Determine whether lending performance is enhanced by offering innovative or more flexible loan products by considering:
- if LMI borrowers are served in new ways or the loans serve creditworthy borrowers not previously served
- the success of each product

Large Banks—Investment Test

Performance Standards	Examiner Review
Dollar amount of qualified investments **Innovativeness** and complexity of qualified investments **Responsiveness** of qualified investments to credit and community development needs **Degree** to which qualified investments are not routinely provided by private investors **Qualified** investments must benefit the assessment area(s) or a broader statewide or regional area that includes the assessment area(s) **(Optional)** qualified investments made by an affiliate bank will be considered if not claimed by any other institution	**Identify** qualified investments – review investment portfolio – at bank's option, review affiliate's investment portfolio – include qualified investments made since previous examination and may consider qualified investments made prior to last exam still outstanding – include qualifying grants, donations or in-kind contributions of property made since last examination that are for community development purposes **Evaluate** investment performance – benefit to assessment area or broader area that includes assessment area – has not been considered under lending or service test – if reported, that affiliate investments have not been claimed by another institution – dollar volume of investments made considering performance context – use of innovative or complex investments, particularly those not routinely provided by other investors – responsiveness to available opportunities and degree to which they serve LMI areas or individuals

Large Banks—Service Test

Performance Standards	Examiner Review
Retail Banking Services **Distribution** of branches among each geography classification **Record** of opening and closing branches, particularly those located in LMI geographies or primarily serving LMI individuals **Availability** and effectiveness of alternative systems for delivering retail banking services in LMI geographies and to LMI individuals **Range** of services provided in each geography classification and the degree the services are tailored to meet the needs of those geographies	**Retail Banking Services** **Determine** from the bank's public file the distribution of branches among each geography classification in the assessment area(s) and the banking services provided, including hours and available products **Identify** any material differences in hours or services available at each branch **Evaluate** the record of opening and closing branch offices and its effect, particularly on LMI geographies or individuals **Evaluate** the accessibility and use of alternative systems for delivering retail banking services in LMI areas and to LMI individuals **Assess** the quantity, quality and accessibility of service-delivery systems provided in each geography classification – consider the degree to which services are tailored to the convenience and needs of each geography
Community Development Services **Extent** of community development services provided **Innovativeness** and responsiveness of community development services	**Community Development Services** **Identify** community development services of the bank and, at its option, services through affiliates **Ensure** community development services meet definition **Evaluate** community development services using performance context information and consider: – innovativeness and whether they serve LMI customers in new ways or serve groups of customers not previously served – the degree to which they serve LMI areas or individuals and their responsiveness to available service opportunities

Large Banks—Data Collection

General

Collect and maintain data on loans to small businesses or farms captured in Schedule RC-C of the Call Report (loans originated or purchased)
- unique loan number or alpha-numeric symbol
- amount of the loan
- location of the loan
- indicate whether the gross annual revenues of the business or farm are $1 million or less

Submit annually by March 1 the following data:
- for each geography, loans to small businesses and farms (loans originated or purchased), including
  - aggregate number and amount of loans at origination in loan size categories of $100,000 or less, more than $100,000 but less than or equal to $250,000 and more than $250,000
  - aggregate number and amount of loans to businesses and farms with gross revenues of $1 million or less
- aggregate number and amount of community development loans (originated or purchased)
- home mortgage loans as required under Regulation C (Home Mortgage Disclosure Act)
- a list for each assessment area showing the geographies within the area
- affiliate lending if affiliate lending is being considered
- consortium or third-party lending if consortium or third-party lending is being considered

Optional

Collect and maintain data for consumer loans (originated and purchased)
- unique loan number or alpha-numeric symbol
- amount of the loan
- location of the loan
- gross annual income of the borrower that is considered in making the credit decision

Collect and maintain any other information concerning lending performance the bank may choose

Public File

General

Written comments (prior two calendar years)
- received from the public that specifically relate to bank's CRA performance
- any response to the comments by the bank

CRA performance evaluation

Branch information
- list of branches with their street addresses and geographies
- list of branches opened or closed
- list of services generally offered and any material differences in availability or cost of services at particular branches
- (optional) information regarding availability of alternative systems for delivering retail banking services

Map of each assessment area
- showing boundaries of the area
- identifying the geographies contained within the area (either on the map or in a separate list)

Any other information the bank chooses

If applicable
- HMDA disclosure statement (prior two calendar years)
- strategic plan
- efforts to improve performance if bank received a less than satisfactory rating

Specific

Large Banks

CRA disclosure statement (prior two calendar years)

(Optional) number and amount of consumer loans (prior two calendar years)
- to low-, moderate-, middle- and upper-income individuals
- located in each geography classification
- located inside/outside the assessment area(s)

Small Banks

Loan-to-deposit ratio
- for each quarter of the prior calendar year
- (optional) additional data on its loan-to-deposit ratio

Small Banks

Performance Standards

Loan-to-deposit ratio
- given the bank's size and financial condition
- credit needs of the assessment area(s)
- other lending-related activities
- considering seasonal variations

Percentage of loans and other lending-related activities in the bank's assessment area(s)

Record of lending and other lending-related activities to
- borrowers of different income levels
- businesses and farms of different sizes

Geographic distribution of loans

Action taken in response to written complaints with respect to CRA

Examiner Review

Loan-to-deposit analysis
- using Call Reports, TFRs or UBPR/UTPRs data, calculate an average loan-to-deposit (LTD) ratio using quarterly LTDs since the last exam
- determine the reasonableness of the average LTD ratio in light of the performance context
- if the LTD ratio does not appear reasonable, additional consideration will be given to
  - number and dollar volume of loans sold to the secondary market
  - innovativeness or complexity of community development loans and qualified investments

Compare credit extended inside and outside assessment area(s)
- if available, use HMDA data, bank loan and other reports to analyze the extent of lending inside and outside assessment area(s), after testing the reports for accuracy
- if loan data are not available, accurate or comprehensive, sample loans originated, purchased or committed to, and calculate the percentage of loan volume within the assessment area(s)
- if majority of the loans are not in the assessment area, thus not meeting the standards for satisfactory, give additional consideration to the performance context

Geographic distribution of credit
- determine if there is a sufficient number and income distribution of geographies to provide meaningful analysis. If yes,
  - determine distribution of loans among low-, moderate-, middle- and upper-income geographies using available bank loan data or sample. Identify groups of geographies, by income categories, where there is little or no loan penetration

Income and revenue distribution of credit
- if available, use data about borrower income (individuals) or revenues (businesses) to determine the distribution of loans by borrower income and by business revenues. Identify categories of borrowers by income or business revenues that have little or no loan penetration

If sufficient geographic or income/revenue data are not available to do an analysis of the distribution of credit, consider alternatives such as analyzing geographic distribution by street address rather than geography

If there are geographies or income categories of low penetration, form conclusions about the reasons in light of the performance context

Review complaints relating to the bank's CRA performance
- evaluate the bank's record of taking action, if warranted, in response to written complaints about its CRA performance

If the bank chooses, review its performance in making qualified investments and providing services. Note: Performance with respect to qualified investments and services may be used to enhance a satisfactory rating but may not be used to lower a rating
- consider dollar volume, impact and innovativeness or complexity of qualified investments
- consider number of branches and ATMs and the services they provide, accessibility to LMI geographies, alternative service delivery systems and record of opening and closing branches

The Strategic Plan Option

Performance Standards

A strategic plan assessment may be chosen as an alternative assessment method by any bank if the plan has been submitted and approved by the bank's supervisory agency. The plan must be in effect, and the bank must have been operating under the approved plan for at least one year.

In general, a plan must meet the following criteria:
- maximum term is five years, and multiyear plans must have annual interim goals
- banks with multiple assessment areas may prepare a single strategic plan or multiple plans and may have assessment areas not covered by a plan
- affiliated institutions may submit a joint plan if the plan provides measurable goals for each institution

Bank must seek public participation in plan development by
- informally seeking suggestions from the public in the assessment area(s) covered by the plan during its development
- formally soliciting public comment for at least 30 days by
  - publishing notice in a general circulation newspaper in each assessment area covered by plan
  - making copies of plan available for review

Requirements for submission of the plan include
- submitting to supervisory agency at least three months prior to proposed effective date
- providing a description of efforts to seek suggestions from the public
- providing any written public comments received
- if initial plan was revised based on public comment, submitting initial plan

The plan must contain the following:
- measurable goals for helping to meet credit needs, particularly of LMI areas and individuals
- address lending, investment and service performance categories with an emphasis on lending and lending-related activities
- specify measurable goals that constitute a satisfactory rating
- for consideration of an outstanding rating, must specify outstanding goals

Examiner Review

Review the following:
- the approved plan and any approved amendments
- the agency's approval process files
- written comments from the public since the effective date of the plan

Determine if the bank achieved goals for each assessment area by
- reviewing plan's measurable goals
- identifying the bank's actual performance
- comparing goals with actual performance

Evaluate any unmet goals and identify if they were "substantially met" based on
- number of goals not met
- degree to which goals were not met
- relative importance of unmet goals to the overall plan
- why the goals were not met

CRA Ratings

Large Banks

Component test ratings that reflect the bank's lending, investments and services are assigned.

Component Test Ratings	Lending	Investment	Service
Outstanding	12	6	6
High Satisfactory	9	4	4
Low Satisfactory	6	3	3
Needs to Improve	3	1	1
Substantial Noncompliance	0	0	0

Preliminary composite rating is assigned by summing the component test ratings for lending, investment and service tests and referring to the chart below.

Points	Composite Assigned Rating
20 +	Outstanding
11 – 19	Satisfactory
5 – 10	Needs to Improve
0 – 4	Substantial Noncompliance

Adjustments to preliminary composite rating:
- no bank may receive a composite assigned rating of satisfactory or higher unless it receives at least low satisfactory on the lending test.
- evidence of discriminatory or other illegal credit practices adversely affects the evaluation of a bank's CRA performance.

A final overall CRA rating is assigned.*

Small Banks

Satisfactory
- if the bank meets each of the standards for a satisfactory rating
  or
- if exceptionally strong performance with respect to some of the standards compensates for weak performance in others

Outstanding
- if the bank meets each of the standards for a satisfactory rating and materially exceeds the standards in some or all of the criteria
  or
- if the bank generally exceeds the standards for a satisfactory rating and its performance in making qualified investments and providing branches and other services and delivery systems supplements its performance sufficiently to warrant an outstanding rating

Evidence of discriminatory or other illegal credit practices adversely affects the evaluation of a bank's CRA performance.

A final overall CRA rating is assigned.*

Strategic Plan

Bank must identify satisfactory measurable goals and, to be considered for an outstanding rating, must identify a separate group of outstanding measurable goals that substantially exceed the satisfactory level.

A satisfactory rating will be assigned if the bank substantially achieves its plan goals for a satisfactory rating.

An outstanding rating will be assigned if the bank exceeds its plan goals for a satisfactory rating and substantially achieves its plan goals for an outstanding rating.

A needs to improve or substantial noncompliance rating will be assigned if the bank fails to substantially meet its plan goals for a satisfactory rating, unless the bank elects in its plan to be evaluated under the appropriate alternative large or small bank assessment method.

Evidence of discriminatory or other illegal credit practices adversely affects the evaluation of a bank's CRA performance.

A final overall CRA rating is assigned.*

* Banks with branches in just one state will receive one set of component ratings. Banks with branches in two or more states and banks with branches in multistate MSAs will be assigned component ratings for each state or multistate MSA reviewed.

Large Bank—Lending Test

Characteristic	Outstanding	High Satisfactory	Low Satisfactory	Needs to Improve	Substantial Noncompliance
Lending Activity	Lending levels reflect EXCELLENT responsiveness to assessment area credit needs.	GOOD	ADEQUATE	POOR	VERY POOR
Assessment Area(s) Concentration	A SUBSTANTIAL MAJORITY of loans are made in the bank's assessment area(s).	HIGH PERCENTAGE	ADEQUATE PERCENTAGE	SMALL PERCENTAGE	VERY SMALL PERCENTAGE
Geographic Distribution of Loans	The geographic distribution of loans reflects EXCELLENT penetration throughout the assessment area(s).	GOOD	ADEQUATE	POOR	VERY POOR
Borrower's Profile	The distribution of borrowers reflects, given the product lines offered, EXCELLENT penetration among customers of different income levels and businesses of different sizes.	GOOD	ADEQUATE	POOR	VERY POOR
Responsiveness to Credit Needs of Low-Income Individuals and Geographies and Very Small Businesses	Exhibits an EXCELLENT record of serving the credit needs of low-income individuals and areas and very small businesses.	GOOD	ADEQUATE	POOR	VERY POOR
Community Development Lending Activities	A LEADER IN MAKING community development loans.	MAKES A RELATIVELY HIGH LEVEL	MAKES AN ADEQUATE LEVEL	MAKES A LOW LEVEL	MAKES FEW, IF ANY
Product Innovation	Makes EXTENSIVE USE of innovative and/or flexible lending practices in serving assessment area credit needs.	USE	LIMITED USE	LITTLE USE	NO USE

Large Bank—Investment Test

Characteristic	Outstanding	High Satisfactory	Low Satisfactory	Needs to Improve	Substantial Noncompliance
Investment and Grant Activity	An EXCELLENT level of qualified community development investments and grants, OFTEN in a leadership position, particularly those not routinely provided by private investors.	SIGNIFICANT OCCASIONALLY	ADEQUATE RARELY	POOR NOT	FEW, IF ANY NEVER
Responsiveness to Credit and Community Developments Needs	Exhibits EXCELLENT responsiveness to credit and community development needs.	GOOD	ADEQUATE	POOR	VERY POOR
Community Development Initiatives	Makes EXTENSIVE USE of innovative and/or complex investments to support community development initiatives.	SIGNIFICANT USE	OCCASIONALLY USES	RARELY USES	DOES NOT USE

Large Bank—Service Test

Characteristic	Outstanding	High Satisfactory	Low Satisfactory	Needs to Improve	Substantial Noncompliance
Accessibility of Delivery Systems	Delivery systems are READILY ACCESSIBLE to ALL portions of the bank's assessment area(s).	ACCESSIBLE ESSENTIALLY ALL	REASONABLY ACCESSIBLE ESSENTIALLY ALL	ACCESSIBLE LIMITED	INACCESSIBLE SIGNIFICANT (particularly LMI geographies and/or LMI individuals)
Changes in Branch Locations	Record of opening and closing of branches has IMPROVED the accessibility of its delivery systems, particularly to LMI geographies and/or LMI individuals.	NOT ADVERSELY AFFECTED	GENERALLY NOT ADVERSELY AFFECTED	ADVERSELY AFFECTED	SIGNIFICANTLY ADVERSELY AFFECTED
Reasonableness of Business Hours and Services in Meeting Assessment Area(s') Needs	Services ARE TAILORED TO CONVENIENCE AND NEEDS of the assessment area(s), particularly LMI geographies and/or LMI individuals.	DO NOT VARY IN A WAY THAT INCONVENIENCES CERTAIN PORTIONS	DO NOT VARY IN A WAY THAT INCONVENIENCES PORTIONS	VARY IN A WAY THAT INCONVENIENCES CERTAIN PORTIONS	VARY IN A WAY THAT SIGNIFICANTLY INCONVENIENCES MANY PORTIONS
Community Development Services	A LEADER IN PROVIDING community development services.	PROVIDES A RELATIVELY HIGH LEVEL OF	PROVIDES AN ADEQUATE LEVEL OF	PROVIDES A LIMITED LEVEL OF	PROVIDES FEW, IF ANY

Small Bank

Characteristic	Outstanding	Satisfactory	Needs to Improve	Substantial Noncompliance
Loan-to-Deposit Ratio (considering seasonal variations and taking into account lending-related activities)	MORE THAN REASONABLE given the bank's size, financial condition and assessment area(s') credit needs.	REASONABLE	LESS THAN REASONABLE	UNREASONABLE
Assessment Area(s) Concentration	A SUBSTANTIAL MAJORITY of loans and other lending-related activities are IN the assessment area(s).	MAJORITY IN	MAJORITY OUTSIDE	SUBSTANTIAL MAJORITY OUTSIDE
Borrower's Profile	EXCELLENT penetration among individuals of different income (including low- and moderate-income) levels and businesses and farms of different sizes.	REASONABLE	POOR	VERY POOR
Geographic Distribution of Loans	The geographic distribution of loans reflects EXCELLENT dispersion throughout the assessment area(s).	REASONABLE	POOR	VERY POOR
Response to Substantiated Complaints	The bank has taken NOTEWORTHY, CREATIVE action in response to substantiated CRA complaints.	APPROPRIATE	INADEQUATE	UNRESPONSIVE
Investments	The investment record ENHANCES credit availability in assessment area(s).	N/A	N/A	N/A
Services	Record of providing branches and/or other services ENHANCES credit availability in assessment area(s).	N/A	N/A	N/A

Definitions

Assessment Area(s) — One or more of the geographic area(s) that is delineated by the bank and used by the regulatory agency in evaluating the bank's record of helping to meet the credit needs of its community. It must, in general, consist of one or more MSAs or one or more contiguous political subdivisions, such as counties, cities or towns. It must include geographies in which the bank has its main office, branches and deposit-taking ATMs, as well as the surrounding geographies in which the bank has originated or purchased a substantial portion of its loans. A bank may adjust the boundaries of its assessment area(s) to include only the portion of a political subdivision that it reasonably can be expected to serve. An assessment area must consist only of whole geographies, may not reflect illegal discrimination, may not arbitrarily exclude LMI geographies and may not extend substantially beyond a CMSA boundary or beyond a state boundary, unless the assessment area is located in a multistate MSA.

Community Development — Encompasses affordable housing (including multifamily rental housing) for LMI individuals; community services targeted to LMI individuals; 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 or have gross annual revenues of $1 million or less; or activities that revitalize or stabilize LMI geographies.

Community Development Loan — A loan that has as its primary purpose community development; (except for wholesale or limited purpose banks) has not been reported or collected by the bank or an affiliate for consideration in the bank's assessment as a home mortgage, small business, small farm or consumer loan, unless it is a multifamily dwelling loan; *and* benefits the bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area.

Community Development Service — A service that has as its primary purpose community development, is related to the provision of financial services, has not been considered in the evaluation of the bank's retail banking services, benefits the bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area and has not been claimed by other affiliated institutions.

Geography — A census tract or a block numbering area delineated by the U.S. Bureau of the Census in the most recent decennial census.

Income Level – Geography

- **Low-Income** — Median family income is less than 50 percent of the area median income
- **Moderate-Income** — Median family income at least 50 percent and less than 80 percent of the area median income
- **Middle-Income** — Median family income is at least 80 percent and less than 120 percent of the area median income
- **Upper-Income** — Median family income is 120 percent or more of the area median income

Income Level – Individual

- **Low-Income** — Less than 50 percent of the area median income
- **Moderate-Income** — At least 50 percent and less than 80 percent of the area median income
- **Middle-Income** — At least 80 percent and less than 120 percent of the area median income
- **Upper-Income** — At least 120 percent or more of area median income

Limited Purpose Bank* — A bank that offers only a narrow product line, such as credit card or motor vehicle loans, to a regional or broader market and has received designation as a limited purpose bank from its supervisory agency.

Performance Context — A bank's performance is judged in the context of information about the bank and its assessment area(s), including

- demographic data on median income levels, distribution of household income, nature of housing stock, housing costs and other relevant data
- lending, investment and service opportunities
- the bank's product offerings and business strategy, capacity and constraints, past performance and the performance of similarly situated lenders
- the bank's public file and any written comments about the bank's CRA performance
- any other relevant information

Qualified Investment — A lawful investment, deposit, membership share or grant that has as its primary purpose community development.

Small Bank — A bank that, as of December 31 of either of the prior two calendar years, had total assets of less than $250 million and was independent or an affiliate of a holding company that, as of December 31 of either of the prior two calendar years, had total banking and thrift assets of less than $1 billion.

Wholesale Bank* — A bank that is not in the business of extending home mortgage, small business, farm or consumer loans to retail customers and has received designation as a wholesale bank from its supervisory agency.

* Additional information regarding wholesale and limited purpose banks is available upon request.

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Appendix 3

Programs That Assist Small Business and Minority Business Enterprises in Maryland

The State of Maryland has a number of programs to assist small businesses and minority business enterprises (MBE). As shown in **Exhibit 1**, the Department of Business and Economic Development, through the Division of Small Business provides business consultation as well as several direct and indirect lending programs. The Neighborhood Business Works Program (NBWP) administered by the Department of Housing and Community Development provides loans and grants to small business and the Maryland Capital Access Program (MCAP), a component of NBWP, provides credit enhancements to private lenders. The geographic limitations under NBWP and MCAP are somewhat more restrictive, including designated revitalization and priority funding areas, but the purpose, targeted clientele, and terms of assistance are similar to other state programs. Also, priority funding areas include nearly all populated areas of the State. In addition to state programs the federal government through the Small Business Administration (SBA), the Small Business Development Centers (SBDC) and the U.S. Department of Commerce Minority Business Development Agency, provides technical and financial assistance to small and minority owned business.

Exhibit 1
Small Business and MBE
State and Federal Assistance Programs

Department of Business and Economic Development:

Program	Description	Products/Services
MSBDFA	Provides financing to businesses unable to obtain financing from traditional lenders. The program meets a number of small business finance needs.	Loan Guarantees Direct loans Equity investments Surety bonding
MEDAAF	Below market long-term fixed rate financing.	Grants and loans
MIDFA	Financing assistance to small and mid-sized businesses that demonstrate a significant economic impact.	Loan guarantees Issues taxable and tax exempt bonds
CDBG	Provides assistance to non-urban counties and municipalities for a variety of economic activities and business loans.	Loans available through local revolving loan funds.
MITP/PWQ	Workforce training programs	Training grants Supportive services
Enterprise/ Challenge	Direct equity investments in emerging technology companies.	Equity investments
GOBA	Assists small and minority businesses to navigate through the processes and regulations of government.	Business consulting Assistance to locate capital

Department of Housing Community Development:

Program	Description	Products/Services
NBWP	Below market interest rate loans to small businesses locating or expanding in locally designated neighborhood revitalization areas.	Loans Grants
MCAP	Credit enhancement program that helps small businesses gain better access to private financing.	Loan guarantees
HSRTC	Tax credits equal to 20% of the qualified capital costs expended in the rehabilitation of a certified commercial structure.	Tax credit

Other Programs:

Program	Description	Products/Services
OMA	Assists minority firms seeking contract and procurement opportunities with the state.	Consultation Referral assistance Training
MBDC	Federal agency created specially to foster the establishment and growth of minority-owned businesses. The MBDC is part of the U.S. Department Commerce and the local office is located in Largo, Maryland.	Business consulting Financial planning
SBA	Financial, technical, and management assistance.	Loan guarantees Business consulting
SDBC	Consulting services and training programs.	Business consulting
SCORE	Business consulting provided by former business executives.	Business consulting

MSBDFA – Maryland Small Business Development Finance Authority
MEDAAF – Maryland Economic Development Assistance Authority Fund
MIDFA – Maryland Industrial Development Authority
CDBG – Community Development Block Grant
LRLF – Local Revolving Loan Fund
MITP/PWQ – Maryland Industrial Training Program/Partnership for Workforce Quality
GOBA – Governor's Office of Business Advocacy and Small Business Assistance
NBWP - Neighborhood Business Works Program
MCAP - Maryland Capital Access Program
HSRTC – Maryland Structure Rehabilitation Tax Credit Program
OMA - The Governor's Office of Minority Affairs
MBDC – Minority Business Development Centers (U.S. Department of Commerce – local office is in Largo Maryland)
SBA – Small Business Administration
SBDC – Maryland Small Business Development Center
SCORE – Service Corps of Retired Executives

Source: Department of Legislative Services, July 2005

Department of Business and Economic Development
Participating Lenders

Maryland Industrial Development Financing Authority (MIDFA)

American National Insurance Co.
BB&T Bank
Bank of America
Bank of Delmarva
Carrollton Bank
Centerville National Bank
Chevy Chase Bank
Citizens National Bank
Community Bank of Tri-County
Fidelity Bank
Farmers & Merchants Bank & Trust
First Union National Bank
First United Bank & Trust
Harbor Bank of Marland
LaSalle Bank – ABN AMRO
Mercantile Mortgage Corp.
Mercantile Potomac Bank
Mercantile Safe Deposit & Trust Co.
MONY Realty Capital
M&T Bank
Sandy Spring Bank
SunTrust Bank

Maryland Small Business Development Financing Authority (MSBDFA)

Advance Bank
Allfirst Bank (now M & T Bank)
Annapolis Bank
Bank of Maryland (now Bank of America)
BB&T Bank
Carrolton Bank
CEBO
Chevy Chase Bank
Citizens Bank
Community Bank of Tri-State County
Crestar Bank
Eagle Bank
Easton Bank & Trust
Enterprise Federal Savings Bank
F & M Bank (now BB&T Bank)
First Marina Bank
First National Bank (now Wachova Bank)
Franklin National Bank
Fredrick County National Bank
Harbor Bank of Maryland
Hopkins Federal Savings Bank
Industrial Bank
Key Bank & Trust
Key Federal Savings Bank
Maryland Permanent Bank & Trust
Mellon Bank
Mercantile Safe Deposit & Trust
NationsBank (now Bank of America)
Nokia Incorporated
Sandy Springs Bank
Shaar Fund
Signet Bank (now Wachova Bank)
Suburban Bank
Sun Trust Bank
Westminster Bank & Trust
Westview Savings Bank

Department of Housing and Community Development
Participating Lenders

Neighborhood BusinessWorks Program (NBWP)

1st Mariner Bank
Allfirst Bank
Allied Capital
American Trust Bank
AT &T Capital
Bank of America
Bank of Delmar
Bank of Eastern Shore
Bank of Maryland
Bank of Southern Maryland
Bank of the Eastern Shore
Bay-Vanguard
BB&T
Calvert Bank and Trust Company
Carroll County Bank & Trust
Carrollton Bank
Cecil Federal Savings Bank
Centerville Natl. Bank
Chestertown Bank of MD
Columbia Bank
Countrywide Home Bank
County Banking & Trust Co.
County First Bank
County National Bank
Easton B&T
F & M Bank
FCNB Bank
Fidelity Bank
First Bank of Frederick
First Liberty National Bank
First Mariner Bank
First National Bank
First National Bank of North East
First National Bank of St. Mary's
First Union Bank
First United
First United Bank & Trust
First United Nat'l Bank & Trust
First Women's Bank
Frederick County National Bank
Frederick National Bank
General Electric Capital Corp.
Greater Atlantic Bank
Harbor Bank
Harford National Bank
Home Federal
K Bank
Key Federal
Kopernick Federal
Lender's Insurance Company
M & T Bank
Maryland Permanent
Mercantile Bank
Montgomery County
National Bank of Cambridge
New Century Bank
New Windsor State Bank
P.G. County Revitalization Loan Fund
PACCAR Financial Corp
Patapsco Bank
Peninsula Bank
People's Bank
People's Bank of Elkton
People's Bank of Kent Co.
PNC Bank
Provident Bank
Provident State Bank
Raytheon Financial Services
Regal Bank & Trust
Sequoia Bank
Severn Savings Bank
Shore Bank
Southern Maryland Bank
Suburban
SunTrust Bank
Susquehanna Bank
Talbot Bank
Taylor Bank
TransAmerica
Union National Bank
Wachovia
Washington Mutual
Wilmington Federal Savings & Trust

Maryland Capital Access Program (MCAP)

Bank of America
BB&T
PNC Bank
SunTrust Bank

///Loan Programs

Maryland Economic Development Assistance Authority and Fund (MEDAAF)

There are five financing capabilities offered through this incentive program, with assistance being provided to the business community and political jurisdictions. To qualify for assistance from MEDAAF, applicants are restricted to businesses located within a priority funding area and an eligible industry sector. With a few exceptions, assistance cannot exceed 70 percent of the total project costs unless the recipient is the Maryland Economic Development Corp. (MEDCO), which can request 100 percent assistance.

The specific capabilities are:

Significant Strategic Economic Development Opportunities - A project that provides eligible industries with a significant economic development opportunity on a statewide or regional level.

- Assistance is provided to a business or MEDCO in the form of a loan.
- Maximum assistance cannot exceed the lesser of $10 million or 20 percent of the current fund balance.

Local Economic Development Opportunity - A business that provides a valuable economic development opportunity to the jurisdiction in which the business is located and is a priority for the governing body of that jurisdiction.

- The local jurisdiction must sponsor the business and must participate in the form of either a guarantee, a direct loan or a grant in an amount equal to at least 10 percent of the State's financial assistance.
- Loans may be up to $5 million, while conditional loans and grants may be up to $2 million.

Direct Assistance to Local Jurisdictions or MEDCO - The Department may provide financial assistance to a local jurisdiction for local economic development needs.

- The total amount of assistance cannot exceed $3 million.
- The use of funds includes land acquisition, infrastructure improvements, acquisition of fixed assets, leasehold improvements, up to 70 percent of the cost of a feasibility study and up to 50 percent of the cost of preparing a local economic development plan.

Regional or Local Revolving Loan Fund - Grants to local jurisdictions to help capitalize local revolving loan funds.

- Eligible applicants include a county or regional economic development agency, whether public or private. A jurisdiction may transfer all, or a portion of its allocation to a regional revolving loan fund.
- Each jurisdiction may receive a grant of $250,000 annually with a $500,000 cap through June 30, 2003. DBED may not make grants totaling more than $2 million per fiscal year.

- To qualify for a grant, the local government must provide a matching grant of funds to the local revolving loan fund.

Special Purposes Loan - This loan targets specific funding initiatives that are deemed critical to the State's economic health and development.

- The specific program determines the level and type of financial assistance provided.
- The special purpose initiatives required by the Legislature include the Brownfield Revitalization Incentive, Seafood and Aquaculture, Animal Waste and Day Care Centers programs.

Economic Development Opportunities Fund (Sunny Day Fund)

This fund promotes Maryland's participation in extraordinary economic development opportunities that provide significant returns to the State through creating and retaining employment as well as the creation of significant capital investments.

- Applicants must possess a strong balance sheet and be credit worthy. Projects must be consistent with the State's strategic economic development plan.
- Substantial employment, particularly in areas of high unemployment, must be created by the project.
- Participants must provide a minimum capital investment of at least five times the amount of the Sunny Day assistance.

Smart Growth Economic Development Infrastructure Fund (One Maryland)

This fund promotes the creation of industrial parks and other needed infrastructure in qualified distressed counties though direct funding of projects identified in the local strategic plan for economic development. The eligible recipients include a local government and MEDCO.

- A qualified distressed county is defined as a county, including Baltimore City, with a local strategic economic development plan that has been approved by the Secretary. The jurisdiction must also have an unemployment rate, for the most recent 18 months, of at least 150 percent of the State's unemployment rate for the same period; and an average per capita personal income, for the most recent 24 months, at or below 67 percent of the State's per capita personal income for the same period.
- The site must be located in a Priority Funding Area.
- The use of funds include acquisition and development of land for industrial sites, development of water and sewer lines, construction of shell buildings and other infrastructure projects.

Maryland Industrial Development Financing Authority (MIDFA)

Encourages private sector financing in economic development projects through the use of insurance, the issuance of tax-exempt and taxable revenue bonds and linked deposits. The use of insurance reduces the lender's risk in the project to an acceptable level. The project must be in a Priority Funding Area.

- **Insurance** - insures loans made by financial institutions up to 80 percent and not to exceed $2.5 million.
- **Insurance of Bonds** - insures bonds up to 100 percent and not to exceed $7.5 million.
- **Taxable Bond Financing** - provides access to long-term capital markets at generally favorable interest rates.
- **Tax-Exempt Bond Financing** - as restricted by Federal tax law, can finance 501 c (3) non-profit organizations and manufacturing facilities.

- **Linked Deposits** - used to stimulate the economic and employment growth of small businesses located in rural areas with a qualifying high unemployment rate. To participate, lenders must agree to provide an eligible business with a loan at below market rates in exchange for having a certificate of deposit of equal value placed with their institution.

Maryland Small Business Development Financing Authority (MSBDFA)

Provides financing for small businesses and those owned by socially and economically disadvantaged persons.

- **Contract Financing Program** - loan guarantees and direct working capital and equipment loans to socially or economically disadvantaged businesses that have been awarded contracts mainly funded by government agencies and/or public utilities.
- **Equity Participation Investment Program** - direct loans, equity investments and loan guarantees to socially or economically disadvantaged-owned businesses in franchising, in technology-based industries, and for the acquisition of profitable businesses.
- **Long-Term Guaranty Program** - provides loan guarantees and interest rate subsidies.
- **Surety Bonding Program** - assists small contractors in obtaining bonding for primarily funded government or public utility contracts that require bid, performance and payment bonds.

Community Development Block Grant Program-Economic Development (CDBG-ED)

Provides funding to commercial and industrial economic development projects. Program funds are dispersed to a local jurisdiction in the form of a conditional grant and are then used for public improvements or loaned to a business. Funding ranges from $200,000 to $1,000,000.

- Project must create employment for individuals with low to moderate income in non-urban areas of the State.
- The political subdivision may be liable if the project fails.
- The use of funds is fairly broad and includes the acquisition of fixed assets and infrastructure and feasibility studies.

Maryland Economic Adjustment Fund (MEAF)

This Fund assists business entities in the State with the modernization of manufacturing operations, the development of commercial applications for technology and exploring and entering new markets. The program is administered in accordance with the guideline imposed by the Federal Government's Economic Development Act (EDA).

- Applicants must demonstrate credit worthiness, ability to repay the obligation and inability to obtain financing on affordable terms through normal lending channels.
- The maximum amount of the loan to any one borrower is $500,000. State designated locations eligible are Baltimore City and Baltimore, Howard, Anne Arundel, Harford, Queen Anne's, Somerset, Worcester, Dorchester, Allegany and Washington counties.
- A loan may not be used to relocate jobs from one commuting area to another.

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Appendix 4

Maryland Bankers Association

2004 Small Business Loans Statistics *

County	Number of Loans Originated	Total Amount of Originations (Amount in $000)
Allegany	1,312	$16,716
Anne Arundel	14,595	$160,898
Baltimore	19,517	$213,506
Baltimore City	9,689	$99,194
Calvert	1,874	$21,240
Caroline	734	$7,248
Carroll	4,772	$51,575
Cecil	2,181	$26,050
Charles	2,711	$26,560
Dorchester	712	$6,829
Frederick	6,086	$66,303
Garrett	1,110	$16,919
Harford	5,465	$54,759
Howard	1,763	$17,571
Kent	699	$6,602
Montgomery	25,945	$111,709
Prince George's	14,500	$145,030
Somerset	517	$5,406
St. Mary's	1,736	$19,954
Talbot	2,175	$33,969
Washington	3,552	$52,407
Wicomico	2,442	$25,214
Worcester	2,513	$30,642
Total	**126,600**	**$1,216,301**

*Source: Federal Reserve Board

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Appendix 5

Criteria Workgroup Summary - Tuesday, October 25, 2005

State of Maryland Banking Services Criteria - Background Information

Current Technical Evaluation Criteria	Current Banking Services Vendor(s)
▪ Ability to provide State's mandatory banking needs ▪ Past experience and references in providing service to other large public entities ▪ Staff experience ▪ Dedicated Government Banking Group ▪ Number and geographic distribution of branches to provide depository services ▪ Service enhancements (optional services)	▪ ***Depository:*** Bank of America ▪ ***Disbursement:*** M&T Bank ▪ ***Lockbox:*** SunTrust ▪ ***Merchant Services:*** Bank of America ▪ ***Custodial Services:*** M&T Bank ▪ ***Securities Lending:*** Dresdner Bank ▪ ***Local Government Investment Pool:*** Mercantile ▪ ***Agency Working Fund and Escrow Accounts:*** Wachovia, 1st Mariner, M&T Bank, SunTrust, Bank of America, Provident, Peoples Bank, CitiBank, County Bank and Trust, Peninsula Bank

Weighting of Financial Institution Evaluation Criteria for Banking Services

Current	Proposal Presented by Criteria Workgroup	Task Force Recommendation (approved 10/11/2005)
Technical – 75% Financial – 25%	Technical – 70% Equity – 15% Financial – 15%	Technical – 60% Financial – 25% Equity – 15%

Note: State Treasurer Evaluators will include an Equity component in the banking evaluation criteria. The Criteria Workgroup proposed the following sub-components for the Equity Criteria:

Equity Component - Evaluation Criteria for each Banking Service

Sub-components Presented by Criteria Workgroup	Task Force Recommendations (approved 10/11/2005)
1. Discrimination Violations 2. CRA Ratings/Reports 3. S/MB Credit/Lending Programs 4. S/MB Outreach & Technical Assistance 5. Small Business Development Offices Partnerships 6. Linked Deposit Programs 7. GOMA Customer Satisfaction Survey Results 8. Reports on Commercial Loans to Registered Maryland Businesses	1. Lending Discrimination Violations 2. CRA Ratings/Reports 3. Participation in State and Federal lending programs to small and minority-owned businesses Credit/Lending Programs 4. Outreach to small and minority-owned businesses, including technical assistance and training programs 5. Strategic partnerships established and participation level with entities whose mission is to provide technical assistance to small and minority-owned businesses (such as Small Business Development Centers)

Note (1): Task Force deferred decision on the Linked Deposit Program to 10/25/2005 meeting
Note (2): Task Force voted not to recommend a Bank Customer Satisfaction Survey at 10/11/2005 meeting
Note (1): Task Force did not address reporting on commercial loans to registered Maryland businesses at 10/11/2005 meeting

Criteria Workgroup Summary - Tuesday, October 25, 2005

(1) Lending Discrimination Violations

Details Presented by Criteria Workgroup	Task Force Recommendation (approved 10/11/2005)	Objective Measurement Suggestion for Treasurer's Consideration
Definition: Bank violated discrimination laws in a final determination that was determined by a judicial or administrative proceeding	The Treasurer shall consider whether the financial institution has or had lending discrimination violations. In this regard, the Treasurer shall consider final adjudicated lending discrimination violations that were filed in Maryland during the 5 years prior to response to the RFP. The Treasurer may use discretion in considering final adjudicated lending discrimination violations that were filed in other states during the 5 years prior to response to the RFP.	
Enforcement: Bank eliminated from providing services to State if a discrimination violation has been found	***Enforcement:*** The Treasurer may determine how to assess a lending discrimination violation by an affiliate or entity acquired by the financial institution.	***Enforcement:*** Financial institution is given points on a sliding scale from 0 to 10 points: ▪ 0 points if discrimination found in Maryland; ▪ 4-7 points if discrimination outside of Maryland; ▪ 10 if no discrimination found

(2) CRA Ratings/Reports

Details Presented	Task Force Recommendation (approved 10/11/2005)	Objective Measurement Suggestion for Treasurer's Consideration
Definition: Bank evaluated as required by the Community Reinvestment Act (CRA)	The Treasurer shall consider whether the financial institution has or had: ▪ a *substantial noncompliance* CRA rating; or ▪ a *needs improvement* CRA rating In this regard, the Treasurer shall consider the most recent CRA rating of the financial institution	

Enforcement: Bank eliminated from providing services to State if overall scores of Needs Improvement or Substantial Noncompliance are reported for all Banks Bank eliminated from providing services to State if *Lending Test* scores of Needs Improvement or Substantial Noncompliance are reported for Large Banks		***Enforcement:*** Financial institution is given points on a sliding scale from 0 to 10 points: ▪ 0-2 points if score is *Substantial Noncompliance* ▪ 3-5 points if score is *Needs Improvement* ▪ 6-7 points if score is Low Satisfactory ▪ 8-9 points if score is High Satisfactory ▪ 10 if score is Outstanding

(3) Participation in State and Federal Lending Programs to Small & Minority Businesses

Details Presented	Task Force Recommendation (approved 10/11/2005)	Objective Measurement Suggestion for Treasurer's Consideration
Definition: Bank evaluated based on its participation level with Federal and State lending programs to Small/Minority Businesses such as the SBA 7(a), SBA 504, etc.	The Treasurer shall consider whether the financial institution successfully made loans in State and Federal lending programs to small and minority-owned businesses. In this regard, the Treasurer shall consider whether the financial institution's participation in programs offered in Maryland during the 5 years prior to response to the RFP.	
Enforcement: Bank receives incentive points for the level of participation as follows: ▪ Low Participation: 1 to 3 points ▪ Medium Participation: 4 to 7 points ▪ High Participation: 8 to 10 points		***Enforcement:*** Financial institution receives incentive points for the level of participation as follows: ▪ Low Participation: 1 to 2 points ▪ Medium Participation: 3 to 4 points ▪ High Participation: 5 points
		Additional Considerations for Treasurer: Banks evaluated based on ratio of loans to bank's net assets; and Treasurer validates lending programs with program participants.

(4) S/MB Outreach & Technical Assistance

Details Presented	Task Force Recommendation (approved 10/11/2005)	Objective Measurement Suggestion for Treasurer's Consideration
Definition:	The Treasurer shall consider whether the financial institution demonstrates that it has an active outreach program to small and minority-owned businesses. In this regard, the Treasurer shall consider whether the financial institution's outreach efforts offered in Maryland during the 5 years prior to response to the RFP.	
Enforcement: Bank receives incentive points for the level of participation as follows: ▪ Low Participation: 1 to 3 points ▪ Medium Participation: 4 to 7 points ▪ High Participation: 8 to 10 points		***Enforcement:*** Financial institution receives incentive points for the level of participation as follows: ▪ Low Participation: 1 to 2 points ▪ Medium Participation: 3 to 4 points ▪ High Participation: 5 points
		Additional Considerations for Treasurer: Financial institution evaluated based on ratio of loans to bank's net assets

(5) Certified Small Business Development Company Partnerships

Details Presented	Task Force Recommendation (approved 10/11/2005)	Objective Measurement Suggestion for Treasurer's Consideration
Definition: Bank evaluated based on the number of strategic partnerships established and participation level of with Small Business Development Offices	The Treasurer shall consider whether the financial institution demonstrates that it has established strategic partnerships and participates with entities whose mission is to provide technical assistance to small and minority-owned businesses. In this regard, the Treasurer shall consider the financial institution's efforts during the 5 years prior to response to the	

	RFP to establish strategic partnerships and participate with entities in Maryland.	
Enforcement: Bank receives incentive points for the level of participation as follows: ▪ Low Participation: 1 to 3 points ▪ Medium Participation: 4 to 7 points ▪ High Participation: 8 to 10 points		***Enforcement:*** Financial institution receives incentive points for the level of participation as follows: ▪ Low Participation: 1 to 3 points ▪ Medium Participation: 4 to 7 points ▪ High Participation: 8 to 10 points

Appendix 6

States that Consider the Community Reinvestment Act Rating of a Financial Institution in Deciding Whether to Deposit Public Funds In That Financial Institution

Illinois 30ILCS 23/8	In addition to any other requirements of this Act, a public agency is authorized to consider the financial institution's record and current level of financial commitment to its local community when deciding whether to deposit public funds in that financial institution. The public agency may consider factors including: (1) for financial institutions subject to the federal Community Reinvestment Act of 1977, the current and historical ratings that the financial institution has received, to the extent that those ratings are publicly available, under the federal Community Reinvestment Act of 1977;
Iowa ICA, 16A.19	The superintendent of banking shall certify that a state bank or national banking association which participates in the operating assistance program is meeting its obligations to meet the credit needs of its community as provided in the federal Community Reinvestment Act of 1977.
Louisiana LSA-RS. 49:317	The Interim Emergency Board shall designate as state depositories such financial institutions doing business in this state as it may deem advisable after considering the recommendations of the treasurer. No financial institution that has received two consecutive ratings of less than satisfactory under the Community Reinvestment Act of 1977 shall be selected to receive the deposits of any public funds. When a financial institution receives two such consecutive ratings of less than satisfactory, the institution may continue to hold all public funds until maturity to avoid the imposition of a penalty upon the depositor; however, the institution shall not accept the public funds for reinvestment and shall not accept additional public funds.
20 LA, 11.2	A bank designated by the Interim Emergency Board as a state depository which does not maintain a rating of satisfactory or outstanding under the Community Reinvestment Act of 1977 is not entitled to reinvest public funds it holds after their maturity, nor is it entitled to accept any additional public funds.
LSA-RS. 39:1220	A. Local depositing authorities shall, except as otherwise provided in this Chapter, select as the depositories of their funds, financial institutions domiciled or having branch offices located in the parish or municipality or congressional district of the depositing authority, subject to the following conditions: (4) No financial institution that has received at least two consecutive ratings of less than satisfactory under the Community Reinvestment Act of 1977, 12 U.S.C. 2901 et seq., shall be selected to receive the deposits of any public funds. When a financial institution receives two such consecutive ratings of less than satisfactory, the institution may continue to hold all public funds until maturity to avoid the imposition of a penalty upon the depositor, however, the institution shall not accept the public funds for reinvestment and shall not accept additional public funds.
LSA- RS.6:124.1	B. Each financial institution shall include in its statement of condition required by R.S. 6:124, at a minimum, a single sentence, printed in boldface type, which states its most recent rating received pursuant to the federal Community Reinvestment Act. Notwithstanding any other provision of

	R.S. 6:124 to the contrary, such rating need not be included in the financial institution's statement of condition to be submitted to the office of financial institutions. C. (1) A financial institution may receive public funds for deposit unless that institution has received two consecutive ratings of less than satisfactory under the Community Reinvestment Act of 1977, 12 U.S.C. 2901 et seq.; as provided in R.S. 39:1220(A)(4) or R.S. 49:317. However, any financial institution receiving one rating of less than satisfactory shall, within one year of receiving such a rating, request from the agency responsible for making the rating, another review of the institution's compliance with the Community Reinvestment Act. The request for a re-rating shall be sent to the rating agency by certified mail. Any subsequent re-rating by the rating agency shall be considered a separate rating. (2) If a financial institution acts as a depository of state funds and receives two consecutive ratings of less than satisfactory under the Community Reinvestment Act of 1977, the institution may continue to hold the public funds until maturity to avoid the imposition of a penalty upon the depositor; however, the institution shall not accept the public funds for reinvestment and shall not accept additional public funds.
Maine ME ST T.5, 135	Before making a deposit, the Treasurer of State must consider the rating of the banking institution, trust company, state or federal savings and loan association or mutual savings bank on its most recent assessment conducted pursuant to the federal Community Reinvestment Act.
Massachusetts MGLA.29, 34A MGLA.29, 34	The state treasurer shall not make such deposits in any state-chartered bank having a descriptive rating of (d) or (e) under section fourteen of chapter one hundred and sixty-seven or any federally insured depository institution having an assigned rating of (C) or (D) under section 807(b)(2) of the Community Reinvestment Act of 1977. provided, however, that the state treasurer shall not include in any such list any state-chartered bank having a descriptive rating of (d) or (e) under section fourteen of chapter one hundred and sixty-seven or any federally insured depository institution having an assigned rating of (C) or (D) under section 807 (b)(2) of the Community Reinvestment Act of 1977.
Missouri VAMS.30.255	Beginning July 1, 1999, the state treasurer shall, when making a new deposit of state funds, continuing an existing demand deposit of state funds, or renewing an existing time deposit of state funds beyond the expiration date of the deposit in any financial institution, review and consider the depository institution's lending record, giving consideration to, among other factors, whether: (1) The institution has been given by the appropriate federal regulatory agency a written evaluation of the institution's record of meeting the credit needs of its entire community, including low and moderate income neighborhoods, pursuant to the federal Community Reinvestment Act of 1977; and (3) The most recent evaluation of the institution includes a rating of "needs to improve record of meeting community credit needs" or "substantial noncompliance of meeting community credit needs", or categories substantially comparable if said federal law is amended. In the event that a financial institution is not required to comply with the Community

	Reinvestment Act, the state treasurer shall not use that fact, either favorably or negatively, in depositing, continuing a demand deposit, or reissuing a demand deposit of state funds.
Nebraska NE ST, 72-1268.07	(1) Each subsidiary bank of an out-of-state bank holding company shall file with the state investment officer a copy of the public section of the subsidiary bank's most current written evaluation issued pursuant to the terms of section 807 of the Community Reinvestment Act of 1977. The copy shall be filed with the state investment officer within thirty days of receipt of the evaluation from the subsidiary bank's primary appropriate federal financial supervisory agency. (2) On and after January 1, 1992, the state investment officer shall not further deposit or redeposit public funds as authorized by section 72-1263 in any subsidiary bank of an out-of-state bank holding company which has been assigned, by its primary appropriate federal financial supervisory agency, a rating of substantial noncompliance in meeting community credit needs. Upon the filing with the state investment officer of a copy of an updated written evaluation which reflects that the subsidiary bank is no longer assigned such rating, the subsidiary bank shall immediately be eligible for further deposit or redeposit of public funds as authorized by such section.
West Virginia Art.8B, 31A-8B-4	In connection with its examination or investigation of a banking institution or bank holding company, the commissioner or board shall: (a) Assess the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such institution; and (b) Take such record into account in its evaluation of an application for a deposit facility or for permission to engage in financially related services by such institution.

Prepared by: Department of Legislative Services, November 2005

Appendix 7

PUBLIC DISCLOSURE

October 21, 2002

COMMUNITY REINVESTMENT ACT PERFORMANCE EVALUATION

SunTrust Bank
675332
Atlanta, Georgia

FEDERAL RESERVE BANK OF ATLANTA
1000 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30309

NOTE: This evaluation is not, nor should it be construed as, an assessment of the financial condition of this institution. The rating assigned to the institution does not represent an analysis, conclusion or opinion of the federal financial supervisory agency concerning the safety and soundness of this financial institution.

MULTISTATE METROPOLITAN AREA: Washington, D.C. - Baltimore

CRA RATING FOR WASHINGTON, D.C. - BALTIMORE:[6] Outstanding

The Lending Test is rated: High Satisfactory The Investment Test is rated: Outstanding

The Service Test is rated: Outstanding

SCOPE OF EXAMINATION

The Washington, D.C. - Baltimore Assessment Area in relation to SunTrust Bank's total assessment area, consisted of 24.5 percent of the census tracts, 26.5 percent of the low- and moderate-income tracts, 21.4 percent of the population, and 20 percent of the low- and moderate-income families. The assessment area contained 14.4 percent of the HMDA loans and 8.3 percent of the small business loans made by the bank. SunTrust Bank's performance in the Washington, D.C. - Baltimore Assessment Area was evaluated using full-scope examination procedures.

DESCRIPTION OF INSTITUTION'S OPERATIONS IN WASHINGTON, D.C. - BALTIMORE

Overview

SunTrust Bank operates 230 branch offices throughout the Washington, D.C. - Baltimore Assessment Area, representing 18.5 percent of the bank's total branches. This assessment area includes the following areas of Virginia: Washington D.C., Fredericksburg City, Spotsylvania, Stafford, Culpeper, Faquier, Alexandria City, Fairfax City, Falls Church City, Manassas City, Manassas Park City, Arlington, Fairfax, Prince William, Loudoun, Warren, and Clarke; and the following areas of Maryland: Carroll, Prince George's, Montgomery, Calvert, Charles, Frederick, Baltimore City, Baltimore, Howard, Anne Arundel, Harford, and Queen Anne's. As of June 30, 2001, the bank had $11.8 billion in deposits in the Washington, D.C. - Baltimore Assessment Area, representing a market share of 10.6 percent.

Competition

The Washington, D.C. - Baltimore Assessment Area is a highly competitive banking market due to the significant presence of banks in this market. According to the FDIC / OTS Summary of Deposits Report, there are 177 other financial institutions operating 1,951 branch offices in the assessment area. The competition comes mainly from FDIC-Insured institutions with branch offices located in the MSA. Many of these banks are statewide, multi-regional, or national banks. SunTrust Bank's largest competitors in the Washington, D.C. - Baltimore Assessment Area are Bank of America and First Union National Bank. However, local competition does not seem to adversely affect the bank's ability to serve the credit needs of its assessment area.

[6] This rating reflects performance within the multistate metropolitan area. The statewide evaluations are adjusted and do not reflect performance in the parts of those states contained within the multistate metropolitan area.

MULTISTATE METROPOLITAN AREA: Washington, D.C. - Baltimore (Continued)

Community Contacts

As a part of the CRA examination, information was obtained from a community leader regarding local economic conditions and community credit needs. The contact stated that SunTrust Bank had been involved in the affordable housing and first time homebuyer initiatives in the community.

The tables on pages 63, 64, and in the Appendix to this report provide information that was used in analyzing the bank's CRA performance. Except where noted, the demographic data are from the 1990 Census. Certain components of the data in the table are discussed in this evaluation as they apply to particular parts of the analysis.

CONCLUSIONS WITH RESPECT TO PERFORMANCE TESTS

The following Washington, D.C. - Baltimore Assessment Area tables show selected demographic information and SunTrust Bank's lending performance for the overall institution.

WASHINGTON DC ASSESSMENT AREA DEMOGRAPHICS								
2002 HUD MFI: MSA 0720 $66,400 MSA 8840 $91,500	Tract Distribution		Families					
			Families by Tract		Families<Poverty as a % of Families by Tract		Families by Family Income	
Income Categories	#	%	#	%	#	%	#	%
Low	121	7.7%	82,846	5.1%	28,443	34.3%	295,548	18.3%
Moderate	346	22.0%	335,330	20.7%	31,974	9.5%	296,816	18.4%
Middle	642	40.7%	741,890	45.9%	23,098	3.1%	396,099	24.5%
Upper	373	23.7%	456,499	28.2%	6,368	1.4%	628,102	38.9%
NA	94	6.0%	0	0.0%	0	0.0%	-	-
Total	*1,576*	*100.0%*	*1,616,565*	*100.0%*	*89,883*	*5.6%*	*1,616,565*	*100.0%*
	Housing Units by Tract							
	Total Units	Owner Occupied			Rental Occupied		Vacant	
		#	%	%	#	%	#	%
Low	152,912	27,436	1.9%	17.9%	103,473	67.7%	22,003	14.4%
Moderate	582,767	231,632	16.0%	39.7%	304,306	52.2%	46,829	8.0%
Middle	1,148,824	711,451	49.0%	61.9%	377,317	32.8%	60,056	5.2%
Upper	630,129	480,663	33.1%	76.3%	118,629	18.8%	30,837	4.9%
NA	4	0	0.0%	0.0%	0	0.0%	4	100.0%
Total	*2,514,636*	*1,451,182*	*100.0%*	*57.7%*	*903,725*	*35.9%*	*159,729*	*6.4%*
	Total Businesses by Tract		Businesses by Tract and Revenue Size					
			Under $1 Million		Over $1 Million		Revenue not Reported	
	#	%	#	%	#	%	#	%
Low	12,637	4.1%	10,291	4.0%	1,472	5.1%	874	4.7%
Moderate	56,049	18.4%	47,100	18.3%	5,296	18.3%	3,653	19.5%
Middle	137,518	45.0%	116,365	45.1%	12,901	44.7%	8,252	44.1%
Upper	95,819	31.4%	81,361	31.6%	8,700	30.1%	5,758	30.8%
NA	3,379	1.1%	2,704	1.0%	518	1.8%	157	0.8%
Total	*305,402*	*100.0%*	*257,821*	*100.0%*	*28,887*	*100.0%*	*18,694*	100.0%
	Percentage of Total Businesses:			84.4%		9.5%		6.1%

Sources: 1990 Census Data, 2001 Dun & Bradstreet business demographic data.
NA Tracts are tracts without household or family income.

[1] Vacant units "offered for rent or sale" are included in **both** the vacant unit total and the rental unit total. As a result, the total number of units shown on this table will be less than the individual totals of owner-occupied, rental and vacant housing units.

MULTISTATE METROPOLITAN AREA: Washington, D.C. - Baltimore (Continued)

WASHINGTON DC ASSESSMENT AREA LENDING								
	HMDA							
	By Tract Income				By Borrower Income			
Income Categories	Home Purchase							
	#	%	$	%	#	%	$	%
Low	217	1.6%	22,086	1.0%	2,020	14.9%	187,661	8.5%
Moderate	2,357	17.4%	312,589	14.2%	3,794	27.9%	480,900	21.9%
Middle	6,946	51.2%	983,781	44.8%	2,984	22.0%	447,204	20.4%
Upper	4,051	29.8%	877,393	39.9%	3,676	27.1%	861,980	39.2%
NA	7	0.1%	687	0.0%	1,104	8.1%	218,791	10.0%
Total	*13,578*	*100.0%*	*2,196,536*	*100.0%*	*13,578*	*100.0%*	*2,196,536*	*100.0%*
	Refinance							
	#	%	$	%	#	%	$	%
Low	71	0.6%	8,074	0.3%	1,289	10.0%	126,615	5.4%
Moderate	1,525	11.8%	201,910	8.5%	2,802	21.7%	349,102	14.8%
Middle	5,960	46.2%	870,629	36.9%	2,816	21.8%	434,106	18.4%
Upper	5,345	41.4%	1,280,859	54.2%	4,612	35.7%	1,149,089	48.7%
NA	5	0.0%	364	0.0%	1,387	10.7%	302,924	12.8%
Total	*12,906*	*100.0%*	*2,361,836*	*100.0%*	*12,906*	*100.0%*	*2,361,836*	*100.0%*
	Home Improvement							
	#	%	$	%	#	%	$	%
Low	37	1.8%	662	0.8%	305	14.6%	6,333	8.0%
Moderate	307	14.7%	8,418	10.7%	470	22.6%	13,069	16.6%
Middle	1,035	49.7%	34,660	44.0%	548	26.3%	20,287	25.8%
Upper	704	33.8%	35,030	44.5%	737	35.4%	38,267	48.6%
NA	0	0.0%	0	0.0%	23	1.1%	814	1.0%
Total	*2,083*	*100.0%*	*78,770*	*100.0%*	*2,083*	*100.0%*	*78,770*	*100.0%*
	Multi-Family							
	#	%	$	%	#	%	$	%
Low	3	37.5%	3,465	48.6%	0	0.0%	0	0.0%
Moderate	4	50.0%	2,871	40.3%	0	0.0%	0	0.0%
Middle	1	12.5%	795	11.1%	0	0.0%	0	0.0%
Upper	0	0.0%	0	0.0%	0	0.0%	0	0.0%
NA	0	0.0%	0	0.0%	8	100.0%	7,131	100.0%
Total	*8*	*100.0%*	*7,131*	*100.0%*	*8*	*100.0%*	*7,131*	*100.0%*
	SMALL BUSINESS							
	By Tract Income							
	#	%	$	%				
Low	221	3.2%	33,890	4.1%				
Moderate	915	13.2%	112,762	13.8%				
Middle	3,461	50.0%	421,369	51.5%				
Upper	2,283	33.0%	243,627	29.8%				
NA	48	0.7%	6,037	0.7%				
Total	*6,928*	*100.0%*	*817,685*	*100.0%*				
	By Loan Size and Revenue							
Loan Size:	#	%	$	%				
$100,000 or less	5,224	75.4%	143,263	17.5%				
$100,001 - $250,000	739	10.7%	130,660	16.0%				
$250,001 - $1 Million	965	13.9%	543,762	66.5%				
Total	*6,928*	*100.0%*	*817,685*	*100.0%*				
Revenue:								
$1 Million or Less	3,890	56.1%	238,942	29.2%				
Over $1 Million	2,804	40.5%	547,806	67.0%				
Not Known	234	3.4%	30,937	3.8%				
Total	*6,928*	*100.0%*	*817,685*	*100.0%*				

Originations and purchases

Small Business loans are loan sizes that are $1 million or less.

CONCLUSIONS WITH RESPECT TO PERFORMANCE TESTS IN WASHINGTON, D.C. - BALTIMORE

LENDING TEST

Overview

In the Washington, D.C. - Baltimore Assessment Area, SunTrust Bank's number and dollar volume of HMDA loans exceeded both the number and the dollar volume of small business loans originated during the review period. Therefore, HMDA lending was given more weight than small business lending in determining the bank's lending test rating for the Washington, D. C. - Baltimore Assessment Area. SunTrust Bank generally offers small farm loans; however, the volume of small farm loans was minimal.

Lending Activity

Lending levels reflect **EXCELLENT** responsiveness to assessment area credit needs. Of the 198,306 HMDA originations or purchases made by the institution, 28,575 loans (14.4 percent) totaling $4.6 billion were originations or purchases in the Washington, D.C. - Baltimore Assessment Area. Of the 28,575 HMDA loans, 13,578 (47.5 percent) were home purchase loans; 12,906 (45.2 percent) were home refinance loans; and 2,083 (7.3 percent) were home improvement loans. Of the 83,112 small business loans made by the institution, 6,928 loans (8.3 percent) totaling $817.7 million were originations or purchases in the Washington, D.C. - Baltimore Assessment Area. Additionally, SunTrust Bank makes use of flexible lending practices in serving the credit needs of the Washington, D.C. - Baltimore Assessment Area. In 2001, approximately 877 financial entities subject to the CRA reported at least one HMDA-reportable origination or purchase in SunTrust Bank's Washington, D.C. - Baltimore Assessment Area. SunTrust Bank ranked 9th with a market share of 2.6 percent by number of loans. Additionally, with 295 financial entities reporting at least one small business purchase or origination in the assessment area, SunTrust ranked 9th with a market share of 2.3 percent by number of loans. The bank considers Bank of America and First Union National Bank as its main competitors with regard to HMDA and small business lending. It is also recognized that large national credit card lenders such as Associates Capital Bank, Incorporated; American Express Centurion; GE Capital Financial, Incorporated; MBNA America, N.A.; and Capital One Federal Savings Bank dominate the assessment area regarding small business lending and therefore are considered competitors in this category.

MULTISTATE METROPOLITAN AREA: Washington, D.C. - Baltimore (Continued)

Geographic Distribution of Loans

For this analysis the geographic distribution of HMDA lending, which includes both originations and purchases, and small business lending was compared with the demographic information available. Performance context issues were also considered, as well as the performance of other banks. SunTrust Bank's performance with regard to the geographic distribution of HMDA and small business lending is **ADEQUATE**.

SunTrust Bank's HMDA lending in the Washington, D.C. - Baltimore Assessment Area in the low-income tracts at 1.1 percent is lower than the percentage of owner-occupied units in these tracts at 1.9 percent. Also, of the 82,846 families in the low-income tracts, 28,443, or 34.3 percent, are below poverty level, leaving 54,403 non-poverty families. These families represent 3.4 percent of total families in this assessment area. The bank's lending in low-income tracts is below this percentage. HMDA lending in the moderate-income tracts at 14.7 percent is below the percentage of owner-occupied units in these tracts at 16.0 percent. The bank's lending in moderate-income tracts is also lower than the percentage of families in moderate-income tracts at 20.7 percent. The aggregate lending comparison table for the Washington, D.C. - Baltimore Assessment Area on page 176 of Appendix C, shows that SunTrust Bank performed similarly to the aggregate in low-income census tracts in 2001. However, the bank's performance was above the aggregate in HMDA lending in moderate-income census tracts in 2001. SunTrust Bank made 0.9 percent of its HMDA loans in low-income tracts compared to the aggregate at 1.0 percent. 13.7 percent of the bank's HMDA loans were made in moderate-income tracts compared to the aggregate at 11.6 percent. HMDA aggregate data for 2002 were not available.

SunTrust Bank's small business lending in the Washington, D.C. - Baltimore Assessment Area in low-income tracts, at 3.26 percent, is lower than the percentage of small businesses, at 4.0 percent, located in these tracts. The bank originated 13.2 percent of its small business loans in moderate-income tracts and these tracts contain 18.3 percent of small businesses in the assessment area. The aggregate lending comparison table for the Washington, D.C. - Baltimore Assessment Area on page 176 of Appendix C indicates that SunTrust Bank performed similarly to the aggregate for small business originations in low-income tracts in 2001 and below the aggregate in moderate-income tracts. CRA aggregate data for 2002 were not available.

Based on these factors, SunTrust Bank's geographic distribution of HMDA and small business lending reflects **ADEQUATE** penetration throughout the assessment area.

Lending to Borrowers of Different Income Levels and Businesses of Different Sizes

For this analysis, the distribution of HMDA lending across borrower income levels and small business lending across business revenue sizes was compared with available demographic information. Performance context issues were also considered, as well as the performance of other banks.

Based on loan data from the review period, low-income families represented 18.3 percent of total families and received only 12.6 percent of SunTrust's HMDA loans. A possible reason for this lending disparity is that 5.6 percent of families in the Washington, D.C. - Baltimore Assessment Area are below the poverty level. Assuming that the 89,883 poverty level families in the assessment area are categorized as low-income, there are 205,665 non-poverty, low-income families in the Washington, D.C. - Baltimore Assessment Area, representing 12.7 percent of total families. The bank's lending to low-income borrowers was similar to this percentage. HMDA lending to moderate-income borrowers at 24.7 percent was significantly higher than the percentage of moderate-income families at 18.4 percent. HMDA lending to middle-income borrowers was below the percentage of the middle-income families and lending to upper-income borrowers was also below the percentage of upper-income families. The aggregate lending comparison table for the Washington, D.C. - Baltimore Assessment Area on page 176 of Appendix C shows that SunTrust Bank compared quite favorably to the aggregate in HMDA lending to LMI borrowers in 2001. SunTrust Bank made 11.1 percent of its HMDA loans to low-income borrowers compared to the aggregate at 7.4 percent. 23 percent of the bank's HMDA loans were made to moderate-income borrowers compared to the aggregate at 17.2 percent. HMDA aggregate data for 2002 were not available.

Of the 6,928 loans to businesses that reported gross revenues originated by SunTrust Bank in the Washington, D.C. - Baltimore Assessment Area, 56.1 percent were originated to small businesses. SunTrust Bank's percentage of lending is below the percentage of businesses with annual gross revenues of $1 million or less in the Washington, D.C. - Baltimore Assessment Area at 84.4 percent. Additionally, in 2001, SunTrust Bank's percentage of small business lending to businesses with revenues below $1 million at 58 percent is significantly above the performance of the aggregate market at 38.6 percent.

Based on these factors, SunTrust Bank's performance reflects **GOOD** penetration among customers of different income levels and businesses of different revenue sizes.

MULTISTATE METROPOLITAN AREA: Washington, D.C. - Baltimore (Continued)

Responsiveness to the Community Credit Needs

SunTrust Bank exhibits an **ADEQUATE** record of serving the credit needs of low-income individuals and small businesses within the SunTrust's Washington, D.C. - Baltimore Assessment Area.

Community Development Lending

SunTrust Bank **MAKES A RELATIVELY HIGH LEVEL** of community development loans in the Washington, D.C. - Baltimore Assessment Area. The bank has originated community development loans totaling $21.7 million. An interview with a community member revealed that community development opportunities in the Washington, D.C. - Baltimore Assessment Area are available. Large, well-established banks compete for these types of loans.

INVESTMENT TEST

The investment test rating for the Washington, D.C. - Baltimore Assessment Area is **OUTSTANDING**. SunTrust Bank has exhibited **EXCELLENT** responsiveness to credit and community development needs through its investment activities. Please refer to the Investment Test section of the overall institution on page 9 of the evaluation for greater detail.

SERVICE TEST

SunTrust Bank's performance in the Washington, D.C. - Baltimore Assessment Area is **OUTSTANDING.** The assessment area includes the following areas of Virginia: Washington D.C., Fredericksburg City, Spotsylvania, Stafford, Culpeper, Faquier, Alexandria City, Fairfax City, Falls Church City, Manassas City, Manassas Park City, Arlington, Fairfax, Prince William, Loudoun, Warren, and Clarke; and the following areas of Maryland: Carroll, Prince George's, Montgomery, Calvert, Charles, Frederick, Baltimore City, Baltimore, Howard, Anne Arundel, Harford, and Queen Anne's.

Accessibility of Delivery Systems

The bank's delivery systems are **READILY ACCESSIBLE** to **ALL** portions of the assessment area. SunTrust Bank offers 24-hour account access through an automated voice response unit and PC banking. The distribution of SunTrust Bank's 230 branch offices and 515 ATMs was compared to the distribution of families and businesses among each tract category within the assessment area. The distribution of SunTrust Bank's branch offices and ATMs is summarized in the following table.

METROPOLITAN AREA: Washington, D.C. - Baltimore (Continued)

SUNTRUST BANK – DISTRIBUTION OF BRANCHES AND ATMS IN THE WASHINGTON, D.C. – BALTIMORE ASSESSMENT AREA						
TRACT INCOME LEVEL	NUMBER OF BRANCHES	PERCENTAGE OF BRANCHES	NUMBER OF ATMS	PERCENTAGE OF ATMS	PERCENTAGE OF TOTAL FAMILIES	PERCENTAGE OF BUSINESSES
Low-Income	7	3%	21	4%	5%	5%
Moderate-Income	33	14%	79	15%	21%	19%
Middle-Income	118	51%	256	50%	46%	45%
Upper-Income	69	30%	153	30%	28%	31%
Total	*230**	*100%*	*515***	*100%*	*100%*	*100%*

*3 branch offices are located in tracts defined as "N/A" based on 1990 U.S. Census data.

**6 ATMs are located in tracts defined as "N/A" based on 1990 U.S. Census data.

Based on examiner analysis, 25 of the middle- and upper-income tract branches provided significant service to LMI tract households, which is reflected in the overall rating.

Institution's Record of Opening and Closing Branches

Since the previous examination, SunTrust Bank opened four branch offices in middle-income census tracts and four in upper-income census tracts. In addition, the bank consolidated one branch in a middle-income tract and one in an upper-income tract. This activity did not negatively impact the bank's branch distribution within the assessment area based on the performance context issue discussed above. The bank's record of opening or closing branches has **NOT ADVERSELY AFFECTED** the accessibility of its delivery systems, particularly to LMI geographies and/or LMI individuals.

Reasonableness of Business Hours and Services in Meeting the Assessment Area Needs

Banking services and hours of operations **DO NOT VARY IN A WAY THAT INCONVENIENCES CERTAIN PORTIONS** of the assessment area, particularly in LMI geographies or to LMI individuals. The level of branch services and hours offered by SunTrust Bank is basically the same throughout the assessment area.

Community Development Services

The bank **PROVIDES A RELATIVELY HIGH LEVEL OF** community development services. Board members, officers, and employees have used their financial expertise to provide financial services that benefit residents in the assessment area. The following table illustrates some of the bank's most significant activities during the review period.

MULTISTATE METROPOLITAN AREA: Washington, D.C. - Baltimore (Continued)

COMMUNITY DEVELOPMENT SERVICES FOR WASHINGTON, D.C.	
ORGANIZATION	**POSITION/SERVICE**
Baltimore County, Maryland Small Business Loan Fund	A bank employee provides financial expertise by serving on the loan committee of this loan fund. The fund provides funding to small businesses in Baltimore County, Maryland.
Business Consortium Fund	A bank employee provides financial expertise by serving as a board member of this fund that provides direct loans and guarantees for members of the Minority Suppliers Development Council.
Community Development Support Collaborative	A bank employee provides financial expertise by serving as a member of the steering committee for this group that has been working since 1992 to revitalize and stabilize low-income, distressed neighborhoods in the District of Columbia. The organization accomplishes this mission through grants, training, and financial assistance to CDC's.
Federal Home Loan Bank AHP Grant Assistance	SunTrust associates provide technical assistance to non-profit organizations by reviewing AHP grant applications and providing recommendations before the applications are submitted. This requires a significant amount of time and is provided at no charge.
Southeast Community Development Corporation	A bank employee provided financial expertise by serving as a board member of this CDC which promotes financial literacy and homeownership to low- and moderate-income families and individuals in the District of Columbia.
Local Initiative Support Corporation(LISC)	A bank employee provides financial expertise by serving as a board member of this local initiative support collaborative. LISC provides grants, loans to CDC's, and makes equity investments for neighborhood redevelopment in low- and moderate-income geographies.
Women's Business Center of Washington, DC	A bank employee provides technical expertise by serving as an instructor for the only organization in Washington, DC, dedicated to offering women business owners high quality, low cost business training and support.

APPENDIX C (Continued)

JOHNSON CITY ASSESSMENT AREA
2001 AGGREGATE LENDING COMPARISON
INCLUDING HUD REPORTERS
HMDA ORIGINATIONS & PURCHASES

Income Category	By Tract Income				By Borrower Income			
	Bank		Aggregate		Bank		Aggregate	
	#	%	#	%	#	%	#	%
Low	0	0.0%	5	0.0%	64	6.4%	979	7.6%
Moderate	76	7.6%	1,374	10.7%	194	19.4%	2,285	17.7%
Middle	545	54.6%	7,402	57.4%	226	22.6%	3,193	24.8%
Upper	377	37.8%	4,111	31.9%	470	47.1%	4,782	37.1%
NA	0	0.0%	4	0.0%	44	4.4%	1,657	12.8%
Total	*998*	*100.0%*	*12,896*	*100.0%*	*998*	*100.0%*	*12,896*	*100.0%*

JOHNSON CITY ASSESSMENT AREA
2001 AGGREGATE LENDING COMPARISON
SMALL BUSINESS

Tract Income Category	Total Loans				Loan Amounts						Gross Revenue <=$1 Million	
	Bank		Aggregate		$100,000 or Less		$100,001 - $250,000		$250,001 - $1 Million			
	#	%	#	%	Bank	Aggregate	Bank	Aggregate	Bank	Aggregate	Bank	Aggregate
Low	2	0.7%	205	3.3%	1.1%	3.4%	0.0%	4.0%	0.0%	1.1%	1.2%	4.5%
Moderate	30	10.6%	1,112	18.0%	14.0%	17.7%	5.1%	20.3%	4.4%	21.3%	10.1%	16.0%
Middle	128	45.2%	2,537	41.1%	47.5%	42.0%	44.1%	32.0%	37.8%	35.5%	46.4%	39.1%
Upper	123	43.5%	2,310	37.5%	37.4%	36.9%	50.8%	43.7%	57.8%	42.2%	42.3%	40.4%
NA	0	0.0%	2	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Total	283	100.0%	6,166	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
				Number of Loans	*179*	*5,559*	*59*	*325*	*45*	*282*	*168*	*3,147*
				% of Total	*63.3%*	*90.2%*	*20.8%*	*5.3%*	*15.9%*	*4.6%*	*59.4%*	*51.0%*

WASHINGTON DC ASSESSMENT AREA
2001 AGGREGATE LENDING COMPARISON
INCLUDING HUD REPORTERS
HMDA ORIGINATIONS & PURCHASES

Income Category	By Tract Income				By Borrower Income			
	Bank		Aggregate		Bank		Aggregate	
	#	%	#	%	#	%	#	%
Low	138	0.9%	5,957	1.0%	1,768	11.1%	44,534	7.4%
Moderate	2,188	13.7%	70,038	11.6%	3,677	23.0%	103,527	17.2%
Middle	7,769	48.6%	298,064	49.5%	3,782	23.7%	128,360	21.3%
Upper	5,874	36.8%	228,132	37.9%	5,749	36.0%	183,333	30.4%
NA	5	0.0%	232	0.0%	998	6.2%	142,669	23.7%
Total	*15,974*	*100.0%*	*602,423*	*100.0%*	*15,974*	*100.0%*	*602,423*	*100.0%*

WASHINGTON DC ASSESSMENT AREA
2001 AGGREGATE LENDING COMPARISON
SMALL BUSINESS

Tract Income Category	Total Loans				Loan Amounts						Gross Revenue <=$1 Million	
	Bank		Aggregate		$100,000 or Less		$100,001 - $250,000		$250,001 - $1 Million			
	#	%	#	%	Bank	Aggregate	Bank	Aggregate	Bank	Aggregate	Bank	Aggregate
Low	115	3.3%	4,824	3.4%	3.0%	3.3%	2.6%	4.0%	5.5%	4.8%	3.1%	3.3%
Moderate	434	12.4%	23,113	16.3%	12.4%	16.3%	12.0%	17.4%	12.4%	16.4%	12.6%	16.2%
Middle	1,787	50.9%	65,913	46.6%	50.2%	46.7%	52.9%	45.0%	53.4%	43.5%	46.3%	46.2%
Upper	1,151	32.8%	46,489	32.8%	33.8%	32.8%	31.5%	32.8%	28.5%	34.4%	37.4%	33.3%
NA	21	0.6%	1,194	0.8%	0.6%	0.8%	1.0%	0.9%	0.2%	1.0%	0.5%	1.0%
Total	3,508	100.0%	141,533	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
				Number of Loans	*2643*	*133,170*	*391*	*4,279*	*474*	*4,084*	*2035*	*54,638*
				% of Total	*75.3%*	*94.1%*	*11.1%*	*3.0%*	*13.5%*	*2.9%*	*58.0%*	*38.6%*

Comptroller of the Currency
Administrator of National Banks

Public Disclosure

Evaluation Period:
January 1, 2000 – December 31, 2001

Community Reinvestment Act Performance Evaluation

Bank of America, National Association (USA)
Charter Number: 22106
1825 East Buckeye Road
Phoenix, AZ 85034-4216

Office of the Comptroller of the Currency
Large Bank Supervision
250 E Street, SW
Washington, D.C. 20219-0001

NOTE: This document is an evaluation of this institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operation of the institution. This evaluation is not, and should not be construed as, an assessment of the financial condition of this institution. The rating assigned to this institution does not represent an analysis, conclusion, or opinion of the federal financial supervisory agency concerning the safety and soundness of this financial institution.

State of Maryland Rating

CRA Rating for the State [19]: Outstanding

The Lending Test is rated: Outstanding
The Investment Test is rated: Outstanding
The Service Test is rated: High Satisfactory

The major factors that support this rating include:

- Lending levels that reflect good responsiveness by Bank of America, N.A. to the credit needs of its AAs within the state;
- Excellent distribution of Bank of America, N.A.'s loans among geographies and good distribution among borrowers of different income levels throughout its AAs;
- Community development lending levels that had a significant positive impact on performance in the state;
- Investment volume that reflects an excellent level of responsiveness to the needs of the state; and
- Provision of services that shows good responsiveness to banking needs.

Description of Institution's Operations in the State of Maryland

Bank of America, N.A. is the second largest banking financial institution in the Maryland rating area with 15% of the market share representing $5.9 billion in deposits. Primary competitors include Allfirst Bank and Provident Bank of Maryland with deposit market shares of 18% and 8%, respectively. Of the bank's 31 rating areas, Maryland ranks tenth and accounts for approximately 2% of total bank deposits. Bank of America, N.A. has three defined AAs in Maryland. The Baltimore MSA comprises 94% of bank deposits and 90% of bank lending totals in Maryland and is the largest AA in the state. For purposes of this review, 2 AAs that are not MSAs have been combined under the Maryland Non-MSA. Within the state, Bank of America, N.A. operates 110 branch offices and 195 ATMs.

19 For institutions with branches in two or more states in a multistate MSA, this statewide evaluation does not reflect performance in the parts of this state contained within the multistate MSA. Refer to the multistate MSA rating and discussion for the rating and evaluation of the institution's performance in that area.

LENDING TEST

Performance under the Lending Test in Maryland is rated Outstanding. Based on a full-scope review, performance in the Baltimore MSA is excellent. Lending performance is highlighted by excellent geographic distribution of small loans to businesses, good geographic distribution of home mortgage loans, good borrower distributions for both home mortgage loans and small loans to businesses, good lending activity, and adequate geographic distribution of multi-family loans. The bank's community development lending had a significant positive impact on performance in the MSA. The offering of bank-wide flexible loan products also enhanced Lending Test performance in the state. Refer to the Charlotte-Gastonia-Rock Hill (NC-SC) multistate MSA section of this Evaluation for information regarding product flexibility.

Based on a limited-scope review, performance in the Maryland Non-MSA is good and weaker than the overall Outstanding performance in Maryland. Weaker performance is due to a less favorable distribution of home mortgage and small business loans among geographies and borrowers of different income levels. Performance in the limited-scope AA did not negatively impact the Lending Test rating for Maryland.

INVESTMENT TEST

Investment Test performance in Maryland is rated Outstanding. Based on a full-scope review, performance is excellent in the Baltimore MSA. Bank of America, N.A. funded 66 investments in the state during 2000 and 2001 totaling $49.4 million. As of year-end 2001, prior period investments totaled $75.2 million. The largest investments in the Baltimore MSA totaled $29.0 million and consisted of three LIHTCs, one Historical Tax Credit, and two equity investments in five single-family and multi-family housing projects. Those projects provided more than 400 housing units to LMI households. Strategic funding was provided to promote small business development. Investments were also made in three CDFIs. Other investments consisted primarily of contributions to local organizations providing community development, housing, and financial services to LMI areas or individuals.

Based on a limited-scope review, Investment Test performance in the Maryland Non-MSA is excellent and is not inconsistent with its overall Outstanding performance in Maryland. Investments consisted of one CDFI and three QZAB, while other investments were primarily in the form of charitable contributions.

SERVICE TEST

Service Test performance in Maryland is rated High Satisfactory. Based on a full-scope review, performance in the Baltimore MSA is good. Bank of America, N.A. has good branch accessibility in LMI geographies. The bank's hours and services are tailored to the convenience and needs of the people living in the MSA. Branch openings and closings have generally not adversely affected accessibility of the bank's delivery systems, particularly in LMI geographies. One branch closing in a moderate-income area was due to merger related reasons. The bank provided an excellent level of community development services. Bank of America, N.A.'s work with 18 organizations during the evaluation period consistently addressed the community development needs of the MSA.

Based on a limited-scope review, performance in the Maryland Non-MSA is excellent and stronger than the overall High Satisfactory performance in Maryland. Stronger performance is due to more accessible retail delivery services to LMI areas. Performance in the limited-scope AA did not impact the Service Test rating for Maryland.

Refer to Tables 1-13 in the Maryland section of Appendix D for the facts and data that support all Test conclusions.

General Information and Overall CRA Rating

General Information

The CRA requires each federal financial supervisory agency to use its authority, when examining financial institutions subject to its supervision, to assess the institution's record of meeting the credit needs of its entire community, including low- and moderate-income (LMI) neighborhoods, consistent with safe and sound operation of the institution. Upon conclusion of such examination, the agency must prepare a written evaluation of the institution's record of meeting the credit needs of its community.

This document is an evaluation of the CRA performance of Bank of America, N.A. issued by the OCC, the institution's supervisory agency, as of December 31, 2001. The agency evaluates performance in AAs, as they are delineated by the institution, rather than individual branches. This AA evaluation may include the visits to some, but not necessarily all of the institution's branches. The agency rates the CRA performance of an institution consistent with the provisions set forth in Appendix A to 12 CFR Part 25.

Overall CRA Rating

Institution's CRA Rating: This institution is rated "Outstanding".

The following table indicates the performance level of Bank of America, N.A. with respect to the Lending, Investment, and Service Tests:

Performance Levels	**Bank of America, N.A.** Performance Tests		
	Lending Test*	Investment Test	Service Test
Outstanding	X	X	
High Satisfactory			X
Low Satisfactory			
Needs to Improve			
Substantial Noncompliance			

*The Lending Test is weighted more heavily than the Investment and Service Tests when arriving at an overall rating.

Summary of Multistate Metropolitan Areas and State Ratings

BANK OF AMERICA, N.A.	Outstanding	Outstanding	High Satisfactory	Outstanding
Augusta-Aiken (GA-SC)	High Satisfactory	Outstanding	Low Satisfactory	Satisfactory
Charlotte-Gastonia-Rock Hill (NC-SC)	Outstanding	Low Satisfactory	Outstanding	Outstanding
Johnson City-Kingsport-Bristol (TN-VA)	High Satisfactory	Low Satisfactory	Low Satisfactory	Satisfactory
Kansas City (MO-KS)	Outstanding	Outstanding	Outstanding	Outstanding
Las Vegas (NV-AZ)	High Satisfactory	Outstanding	High Satisfactory	Satisfactory
Portland-Vancouver (OR-WA)	Outstanding	Outstanding	Outstanding	Outstanding
St Louis (MO-IL)	Outstanding	Outstanding	Low Satisfactory	Outstanding
Washington (DC-MD-VA-WV)	Outstanding	Outstanding	Outstanding	Outstanding
Arizona	Outstanding	High Satisfactory	High Satisfactory	Outstanding
Arkansas	High Satisfactory	High Satisfactory	High Satisfactory	Satisfactory
California	Outstanding	Outstanding	High Satisfactory	Outstanding
Florida	High Satisfactory	High Satisfactory	Low Satisfactory	Satisfactory
Georgia	Outstanding	Outstanding	High Satisfactory	Outstanding
Idaho	Outstanding	Outstanding	High Satisfactory	Outstanding
Illinois	Outstanding	Outstanding	High Satisfactory	Outstanding
Iowa	High Satisfactory	Low Satisfactory	Outstanding	Satisfactory
Kansas	Low Satisfactory	Low Satisfactory	Outstanding	Satisfactory
Maryland	Outstanding	Outstanding	High Satisfactory	Outstanding
Missouri	High Satisfactory	Low Satisfactory	Low Satisfactory	Satisfactory
Nevada	High Satisfactory	Outstanding	Low Satisfactory	Satisfactory
New Mexico	High Satisfactory	High Satisfactory	High Satisfactory	Satisfactory
New York	High Satisfactory	Outstanding	High Satisfactory	Satisfactory
North Carolina	High Satisfactory	Outstanding	High Satisfactory	Satisfactory
Oklahoma	High Satisfactory	High Satisfactory	High Satisfactory	Satisfactory
Oregon	Low Satisfactory	Outstanding	Low Satisfactory	Satisfactory
South Carolina	Low Satisfactory	Outstanding	High Satisfactory	Satisfactory
Tennessee	High Satisfactory	Outstanding	Low Satisfactory	Satisfactory
Texas	High Satisfactory	Outstanding	High Satisfactory	Satisfactory
Utah	High Satisfactory	Outstanding	High Satisfactory	Satisfactory
Virginia	High Satisfactory	High Satisfactory	High Satisfactory	Satisfactory
Washington	Outstanding	High Satisfactory	Outstanding	Outstanding

(*) The Lending Test is weighted more heavily than the investment and Service Tests in the overall rating.

(**) The overall Investment Test rating includes investment activity in non-franchise states that are not weighted within the 31 rating areas detailed above.

Executive Summary

Narrative support for Bank of America, N.A.'s overall performance rating is detailed below. Additional narrative regarding performance for each multistate MSA and state is included in the *Primary Rating Areas* and *Other Rating Areas* sections of this Evaluation. Narrative is supported by numerical tables that reflect data considered during the analysis of Bank of America, N.A.'s CRA performance. The reader can find those tables in *Appendix D*.

LENDING TEST

- Lending performance is excellent and has positively impacted persons living in or businesses located in LMI geographies as well as persons of different income levels and businesses of different revenue sizes.
- During the evaluation period, Bank of America, N.A. originated 971,667 CRA reportable loans that total $127.6 billion. Of that total, 828,205 were HMDA reportable loans totaling $112.8 billion, 142,488 were small business and farm loans totaling $12.4 billion, and 974 were community development loans totaling $2.3 billion.

Bank of America, N.A. consistently demonstrates excellent or good Lending Test results in its rating areas. The bank's HMDA, small business, and small farm lending distribution among areas of different income levels is good, as the percentages of these loan types typically are near to or exceeds the percentages of owner-occupied households, businesses, and farms in LMI geographies. The geographic distribution of HMDA, small business, and small farm loans is strongest in the Washington multistate MSA and the states of Illinois and Maryland. Rating areas with either excellent or good geographic distributions of HMDA, small business, and small farm loans represent almost 86% of the bank's total deposits.

Bank of America, N.A.'s HMDA lending distribution among borrowers of different income levels is adequate while the distribution of small business and small farm loans among businesses and farms of different revenue sizes is good. Rating areas where the borrower distribution of HMDA loans is adequate or better represent over 99% of bank deposits while rating areas where the borrower distribution of small business and farm loans is excellent or good contribute over 95% of bank deposits. The Augusta-Aiken and Las Vegas multistate MSAs and the states of Florida, Idaho, and Nevada demonstrate excellent performance and reflect the most positive distribution of small business and farm loans among businesses and farms of different revenue sizes.

The bank's community development lending enhances its Lending Test performance. In many instances, Bank of America, N.A. originated community development loans in greater amounts than expected to achieve excellent performance. Relative to banking presence, the most significant level of community development loans exceeding $50.0 million were made in the Charlotte-Gastonia-Rock Hill and Washington multistate MSAs as well as the Atlanta, Baltimore, Chicago, Houston, New York, Riverside-San Bernardino, San Diego, and Tucson MSAs. Rating areas where community development lending performance had a significantly positive impact on overall Lending Test performance represent almost 78% of bank deposits. In addition, letters of credit originated by the bank contributed significantly to the bank's community development goals as these activities supported the creation of an additional 13,622 affordable homes.

In relation to the bank's deposit market share, lending activity levels further support the bank's overall excellent Lending Test performance as Bank of America, N.A.'s activity is almost always commensurate with, or exceeds, its presence in the market. Finally, special loan products with flexible underwriting standards assist in meeting the credit needs of LMI individuals and geographies within its AAs. Bank of America, N.A. originated a substantial majority of HMDA, small business, and small farm loans inside of its defined AAs.

INVESTMENT TEST

- Investment activity reflects an excellent level of responsiveness to the needs of Bank of America, N.A. AAs. In many AAs, Bank of America, N.A. has taken a leadership role in developing and participating in investments that are complex and involve multiple partners and both public and private funding. Many investments serve significant community development needs.

- During the evaluation period, Bank of America, N.A. made 3,513 investments, including grants and contributions, within the franchise states totaling almost $1.3 billion. Currently, 1,229 prior period investments remain outstanding and total $861.4 million. Bank of America, N.A. also made 57 additional qualified investments in non-franchise states that total $265.4 million.

Bank of America, N.A. consistently demonstrates strong Investment Test performance. Rating areas where investment performance is excellent or good represent 88% of bank deposits. Weaker, but adequate performance in four rating areas is centered in lower amounts of qualified investments relative to the bank's operations in those rating areas. Investment performance in many AAs was positively impacted by prior period investments that remain outstanding.

In many markets, the volume of investments made during and prior to the evaluation period as well as the investment projects located outside of Bank of America, N.A.'s AAs enhances investment performance. Bank of America, N.A. has made investments in many AAs in greater amounts than expected to achieve excellent performance. Relative to banking presence, the most significant current period investments in amounts greater than 20% of tier one capital and $10.0 million were made in the Memphis, Merced, New York, and Pensacola MSAs. In addition, during this evaluation period, more than $40.0 million was invested in the St. Louis multistate MSA and Baltimore, Dallas, Houston, Los Angeles-Long Beach, Riverside-San Bernardino, and San Francisco MSAs. The most significant housing development, where Bank of America, N.A. invested in more than 1,000 LMI housing units, was in the Washington multistate MSA and Atlanta, Chicago, Dallas, Fort Lauderdale, and Los Angeles-Long Beach MSAs. In aggregate, Bank of America, N.A. provided investment vehicles that funded more than 17,000 LMI housing units throughout its franchise states.

Bank of America, N.A. often demonstrates significant leadership in its qualified investment activities. The bank consistently ranks among the five most significant LIHTC investors across the country. Similar leadership is evident in the bank's investments in QZABs and CDFIs. Often, Bank of America, N.A. amplifies the impact of its qualified investments by providing technical assistance to the community based non-profit entities that benefit from the bank's funding support. Bank of America, N.A. frequently extends grants to assist organizations that are incapable of supporting additional debt or providing a sufficient investment return.

SERVICE TEST

- Provision of retail and community development services shows good responsiveness to the banking needs of geographies and individuals of different income levels in its assessment areas.

Bank of America, N.A. demonstrates good Service Test performance. The accessibility of the bank's retail service delivery systems is good as the percentage of branches in LMI geographies is typically near to or is in excess of the percentage of the population in these areas. Rating areas with either excellent or good branch distribution contribute 73% of franchise deposits. The bank's record of opening and closing branches generally did not adversely affect the accessibility of delivery systems, particularly in LMI geographies. The bank's hours and services are typically tailored to the convenience and needs of communities the bank serves as rating areas with excellent performance under this Service Test performance criteria contributed 66% of the bank's deposits. Bank of America, N.A. provides a good level of community development services as services typically respond to the community development needs of the communities Bank of America, N.A. serves. Rating areas where the bank's provision of community development services is excellent or good includes 84% of franchise deposits.

Appendix 8

Task Force on Lending Equity within Financial Institutions Providing State Depository Services
Lending Equity Linked Deposit Program
Recommended by Franklin Lee and Dargeelyn Loftin

Introduction

The purpose of the Task Force is to --

1. *identify appropriate data that would demonstrate whether financial institutions are providing adequate access to credit and capital for minority business enterprises;*
2. *advise the State Treasurer on developing additional or supplemental criteria to be considered in the selection of a financial institution as a depository that ensures that such institutions provide adequate opportunities for access to credit and capital for minority business enterprises; and,*
3. *develop a strategy to implement a lending equity policy*

To encourage financial institutions to be active in supporting minority business access to credit and capital, the Task Force has developed six (6) recommendations to meet these objectives. Five recommendations were voted on and approved during the October 11, 2005 meeting of the Task Force. The Task Force asked Franklin Lee and Dargeelyn Loftin to recommend a Linked Deposit Program to acknowledge, reward, and assist Maryland-based financial institutions that support the State's lending equity needs. This proposed program is designed to encourage and reward banks for their involvement in enhancing the credit and capital available to minority business enterprises that are certified in Maryland.

For reference purposes, the following appendices are provided in this report:

- Appendix A - The *Lending Equity Linked Deposit Program* Summary
- Appendix B - *A Summary of Linked Deposit Programs (6/15/04)* from other States
- Appendix C-1 - *A Summary of State of Washington's Linked Deposit Program (Doug Eckstein, Deputy Treasurer)*
- Appendix C-2 – *A Summary of State of Washington's Linked Deposit Program (Sam Wagner, Program Specialist for Office of Minority and Women Business Enterprises)*
- Appendix D - *Washington State Linked Deposit Program Loan Application Tracking Report*
- Appendix E – *Small Business Enterprise Loan Fund - Web Page (Economic Development Business Works in Charlotte)*
- Appendix F – *Executive Summary: Availability of Financing to Small Firms Using the Survey of Small Business Finances (Karlyn Mitchell and Douglas K. Pearce for SBA Office of Advocacy, May 2005)*
- Appendix G – *Abstract and Introduction: Discrimination in the Small Business Credit Market (Blanchflower, Levine, and Zimmerman, 2003)*

Lending Equity Linked Deposit (LELD) Program Overview

The recommendation is the State should offer a Lending Equity Linked Deposit Program to provide low interest terms loans and revolving lines of credit to certified minority and women owned businesses in Maryland. Lee and Loftin considered two options for implementing the LELD program within the state of Maryland:

a. the financial institution is evaluated based on its participation level with the LELD Program
b. the financial institution is awarded the contract for State Depository Services based on a requirement to participate in LELD Program

We concluded that the two requirements should be combined to provide the maximum benefit to minority business enterprises. Therefore, under this proposal, each Financial Institution competing for State financial services contracts shall be evaluated, in part, based on its prior participation and / or future level of commitment for participation with the Lending Equity Linked Deposit Program. Moreover, any Financial Institution that is awarded the contract for State Depository Services for Maryland's General Fund shall be required to participate in this program at a specified minimal level based upon the size of the institution's assets.

As this effort to enhance credit access for minority businesses is considered to be a public – private partnership, under this proposal, the State is required to contribute funding to support the administration of this loan program.

Additionally we recognize the importance of offering two forms of credit options under the LELD Program to address two distinctly identified types of financing needs for M/WBE firms. The first need is for longer-term business loans that might be used by certified M/WBEs for a variety of business purposes, including, but not limited to, equipment purchases, real estate leases and purchases, staffing, and product investments. This need is best addressed through the availability of term loans up to $250,000 in value, at interest rates that are 2% below market rates, with repayment terms of up to 36 to 60 months (depending on loan pool availability). [1]

The second financing need addressed by this proposal is for shorter term working capital. This need is addressed through the availability of a revolving line of credit vehicle that provides up to $1 million to loan applicants at interest rates that are 2% below market rates, with variable repayment terms of up to 36 months. Applicant's principals must have relevant experience in the trade or business in which financing is being sought. The size of the line of credit may not exceed 80% of the value of pending receivables. Under this proposal, the size of each line of credit is modified based upon outstanding receivables and the applicant's demonstrated ability to repay.

The former component is targeted to smaller start-up enterprises that may be unable to obtain credit through traditional lending channels, while the latter component is geared towards more established firms that may have demonstrated performance capabilities, but that are hindered by a lack of

[1] Recent research strongly suggests that MBEs experience significantly higher loan denial rates and loan interest rates that are 2 to 3% higher than otherwise identical non-minority business firms, even when controlling for such factors as frequency of applications, net worth, creditworthiness, judgments, and bankruptcies, (See Appendices F and G).

working capital to carry initial contract mobilization costs. Under each of these credit vehicles, the applicant must provide personal guarantees and pledge business and personal assets as collateral to the extent possible. In addition, for the lines of credit, the loan applicant is required to pledge receivables as a form of repayment.

We believe the LELD Program would best be managed and administered by a non-profit, Maryland-based, minority-controlled and operated loan fund manager. This LELD Program Administrator should have a demonstrated track record of issuing loans to minority and women owned businesses and of successfully managing the risks of such a loan portfolio in the State of Maryland for a minimum period of ten years. Lastly, the administrator should have the capability of insuring that the loan approval process for completed applications should take no longer than 30 days. [2]

The LELD Program loan pool should be funded initially via contributions from the State and from those financial institutions that compete for financial services contracts with the State. Based upon our review of the experiences of the State of Washington in its Linked Deposit Loan Program, we suggest that the optimal level for the loan pool is at least $50 million. [3] However, in recognition of present budgetary constraints, and the need to work out various administrative details over a period of time, we have proposed an introductory pilot for this LELD Program that is initially funded at $10 million. The State shall place an annual appropriation of $2 million in the loan fund pool to establish the LELD Program. These State funds shall then be leveraged by the contributions from Financial Institutions that are competing for the *State Depository Services* contract. Each such Financial Institution shall be required to contribute to the loan pool at a minimum initial level of $1 million. The selected financial institution for *State Depository Services* shall be required to thereafter contribute a minimum of $2 million annually to the loan pool. Financial institutions competing for all other Bank Services contracts (i.e., Disbursements, Merchant Services, Lockbox, etc.), may voluntarily contribute to the loan pool, and will be favorably evaluated for such contributions in competitions for such contracts.

In either case, the financial institutions will receive incentive points for their funding commitment level of participation as follows[4]:

- Low Participation: 1 to 19 points
- Medium Participation: 20 to 39 points
- High Participation: 40 to 60 points

Additionally, the State shall aggressively market the availability of the program through all channels (i.e., events, forums, websites, newsletters, PSAs, etc.) and GOMA and other State agencies shall have the responsibility to refer all certified minority and women owned business to the Lending Equity Linked Deposit Program for prequalification purposes.

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[2] As indicated by the DBED presentation and conversations with Washington State Linked Deposit Program officials, traditional government economic development agencies and banking institutions have proven largely inexperienced and ineffective in applying non-traditional underwriting criteria and managing loan pools for M/WBEs that might be considered as higher risk loans by traditional standards.
[3] See Appendices C-1 and C-2.
[4] The application of this point scale should be dependent upon the financial institutions' size as measured by assets (i.e., banks will be evaluated with other banks that are within their size class).

The benefits to financial institutions participating in the LELD Program are as follows:

- Receive CRA Report Credit for participation
- A successful program could lead to future banking customers
- State acknowledged recognition through awards for exceptional contributions to the loan pool
- Competitive advantage over non-participating banks in seeking State contracts for financial services

Lending Equity Linked Deposit Program Summary
Draft by Dargeelyn Loftin and Franklin Lee

Details Presented	Recommendation will be presented at 11/29/2005 meeting	Objective Measurement Suggestion for Treasurer Consideration
Definition: Financial Institution is evaluated based on its participation level with the Lending Equity Linked Deposit Program and institution is awarded the contract for State Depository Services based on the requirement to participate in this program.	The Treasurer shall consider the level of commitment for participation by financial institutions in a Lending Equity Linked Deposit Program to provide low interest terms loans and revolving lines of credit to certified minority and women owned businesses in Maryland: ▪ **Administrator:** A non-profit, Maryland-based, minority controlled and operated loan fund manager that has provided loans to minority and women owned businesses in the State of Maryland. The principals of the selected fund manager must have at least ten years experience making contract financing loans in the State of Maryland. The Administrator will be paid an annual administration fee by the State, estimated at approximately of 2-3% of the loan pool amount. ▪ **Loan Amount:** variable up to $1 million for line of credit, and $250,000 for term loans ▪ **Interest Rate:** 2-3% below market rates ▪ **Loan Pool Size:** The pilot loan pool size is $10 million to initiate loans, and the optimal operating loan pool size should be $50 million[5]; the pool shall provide an allocation of no less than 1/3 of the pool for line of credit transactions; it is anticipated this loan pool is funded by the State and financial institutions competing for State Financial	***Enforcement:*** Financial institutions competing for *State Depository Services* are required to fund the loan pool at a minimum of $1 million. The institutions will receive points for the level of funding participation as follows: ▪ Low Participation: 1 to 19 points (i.e., $1 million) ▪ Medium Participation: 20 to 39 points ▪ High Participation: 40 to 60 points The selected financial institution for *State Depository Services* will be required to contribute $2 million to the loan pool on an annual basis. Financial institutions competing for all other Bank Services (i.e., Disbursements, Merchant Services, Lockbox, etc.) contracts may voluntarily contribute to the loan pool. The institutions will receive points for their voluntary participation level of funding as follows: ▪ Low Participation: 1 to 19 points ▪ Medium Participation: 20 to 39 points ▪ High Participation: 40 to 60 points

[5] Optimal Loan Pool size of $50 million is based upon the analysis of the experience of the Washington State Linked Deposit Loan Program.

	Services contracts; ▪ **Repayment Terms:** Revolving lines of credit to be repaid in full within 30 days of final contract payment; term loan repayment terms may vary up to 36 months, or longer if necessary, and not to exceed 60 months, depending upon loan pool availability. ▪ **Policy & Underwriting:** (1) State annually appropriates $2 million in the fund pool to cover costs for establishing and administering the LELD Loan Program. (2) Minority and women owned businesses can pre-qualify for line of credit funding prior to receiving a contract, however, actual funding cannot be provided until a contract has been awarded; business meets pre-established minimum standards set forth by the Administrator; business loan applicant agrees to waive certain provisions of the Privacy Act for the purpose of collecting data on the program. (3) Conditions for revolving line of credit are that the size of the line of credit must not exceed 80% of the value of pending receivables and State contracts to be performed by loan applicant. Applicant's principals must have relevant experience in the trade or business in which financing is being sought. Applicant agrees to pledge receivables from contracts as a source of repayment. Personal guarantees must be provided to the extent available by the applicant. Applicant will agree to draws on an as needed basis on the Line of Credit based upon contract invoice amounts and other receivables. (4) Conditions for business term loans are that the size of the loan may not exceed $250,000, but	

	may be used for any approved business purpose. Personal guarantees must be provided and available business and personal assets must be pledged as collateral by the applicant. (5) The approval process for a complete application should take no longer than 30 days. (6) The State shall aggressively market the availability of the program through all channels (i.e., events, forums, websites, newsletters, PSAs, etc.) and GOMA and other State agencies shall specifically refer all minority and women owned business to the Lending Equity Linked Deposit Program for prequalification. In this regard, the Treasurer shall consider the financial institution's voluntary efforts during the 5 years prior to response to the new RFP to participate in LELD Program with entities in Maryland.	

A SUMMARY OF LINKED DEPOSIT PROGRAMS (6/15/04)

JURISDICTION	PROGRAM DESCRIPTION	UNIQUE FEATURES
New York State	NY established its own rating system for financial systems in 1978. A division within the State's banking department reviews the CRA activities of 150 banks; program includes active bank audits conducted every 2 years (normally in conjunction with federal audits), and educational outreach to inform community groups of bank ratings to assist in planning economic development strategies. Since 1994, over 1400 businesses received linked loans in excess of $480 million, creating some 27,000 jobs in New York State.	No direct penalties for receiving a poor rating, other than public ridicule from published ratings. In 2002, the State Comptroller and State public authorities were authorized to designate $350 million for linked deposits. 110 lending institutions participated. The average approval time for linked deposit program loans was five business days.
Massachusetts	1982 State CRA statute created a fifth tier in the rating system, adding "high satisfactory" between the federal ratings of "satisfactory" and "outstanding". Program also grants CRA credit to financial institutions that invest in certain State capital access programs such as the Capital Access Program for Small Businesses. The State Treasurer deposits at least $100,000 of state funds in any institution with an "outstanding" CRA rating.	The State Treasurer is prohibited from depositing state funds in any financial institution that has a rating below "satisfactory". Ratings are not publicly disseminated. In 1990, Massachusetts home mortgage loans to minorities in low-income areas within the state were below the national average, but by 1998 were twice the national average.
Florida	Linked deposit program leverages private dollars though State deposits to encourage $6.8 million in loans directed to enterprise zones.	

JURISDICTION	PROGRAM DESCRIPTION	UNIQUE FEATURES
Ohio	Small Business linked deposit program was established in 1983. State Treasurer is authorized to place up to 12 percent of the State's investment portfolio in reduced-rate investments at local lending institutions, which then lend funds to qualifying small businesses at below-market rates. Eligibility for loans is in part determined by requirement for one job created for every $25,000 requested. If loan is approved by the institution and the State, the State purchases a reduced-rate certificate of deposit from that institution, provided the loan to the borrower is at a reduced rate. In addition, Ohio runs three other linked deposit programs including Agricultural Linked Deposit (Agrilink) to offer reduced-rate loans to area farmers; BidOhio to provide an online auction of public investment funds to infuse millions of dollars into community banks that then loan monies out in local economic development projects; and the Tri-Partite Small Business Loan Initiative which is a partnership between eh State Treasurer, the U.S. Small Business Administration and a group of seven regional banks that offers up to $25 million in State funds for small businesses in economically distressed areas.	Program has assisted thousands of Ohio businesses since 1983. Businesses must maintain offices and facilities exclusively in Ohio, and employ fewer than 150 persons (most of whom are Ohio residents) to be eligible for loans. Linked deposits are renewable after 2 years.
Louisiana	Linked deposit program stimulates low-interest loans for businesses engaged in agricultural product processing. State Treasurer places a certificate of deposit with an eligible institution at 3 percent below existing investment rates, provided the institution agrees to lend the value of such deposit to a qualified business at 3 percent below the existing borrowing rate. The maximum size of any single such loan is $200,000. Certificates of deposit may not be pledged against the value of the loans as security in the event of default.	Linked deposits may be made in increments as large as $10 million at a single financial institution. The State established geographic priorities for linked deposit loans based upon economic needs, numbers of jobs created or preserved, and the relative financial need of the borrower as determined by the lender. Certificates of deposit are renewable in one-year increments up to 3 consecutive years.

JURISDICTION	PROGRAM DESCRIPTION	UNIQUE FEATURES
Boston	Detailed annual reports are made to the Mayor on the distribution of loans to small business by census tract for each of the local area banks.	City Council has a Committee on Financial Services and Community Reinvestment with oversight of the delivery of financial services in Boston neighborhoods, including construction and mortgage loans for affordable housing, community reinvestment, affirmative marketing, and non-discriminatory lending policies. This Committee also has oversight responsibility of the City Treasury department within the context of the Linked Deposit Program.
Maryland	Water Quality Revolving Loan Fund – Linked Deposit Program enables private landowners to enter into a loan through any of the 39 eligible lending institutions for capital improvements for shoreline erosion control, wetland creation, correction of on-site sewage disposal systems, etc. This program is administered by the Maryland Department of the Environment. The lending institution underwrites the loans and the MDE and the lender enter into an investment agreement for a sum equal to the amount of the loan. The MDE takes a lower than usual interest rate on its deposits with that institution in return for the institution's below-market rate loans.	

JURISDICTION	PROGRAM DESCRIPTION	UNIQUE FEATURES
Rhode Island	State Linked Deposit Policy links the deposit of state funds with bank performance as determined by the rating system utilized by federal regulatory authorities for CRA. Preference is given to financial institutions with outstanding ratings. Definition of funds on deposit includes monies designated for general operating purposes, including all revenues from taxes, fees, and fines, and federal aid, special purpose funds, restricted receipt accounts, and trust accounts. However, it does not include investments of the state and municipal employees' retirement system.	State shall withdraw its funds in a reasonable time period from any institution that has a CRA rating below satisfactory. Eligible banks must disclose any documents relating to fair lending audits. (Such disclosures are not public unless deemed so by federal or state law).
Suffolk County, NY	Linked deposit program allows banks to lend funds to qualified small businesses at lower interest rates because of the County's agreement to take a slightly lower interest rate as part of its investment policy.	
Texas	State law prohibits the State from depositing funds in financial institutions that have low CRA ratings.	
Washington State	State Treasurer was directed to establish a linked deposit program for investment of deposits in public depositaries. As a condition of participating in the program, lenders agree to make qualifying loans to minority and women business enterprises that have terms not exceeding 10 years, that have interest rates that are at least 2 basis points below market rates, and points or fees at loan closing do not exceed one percent of the loan amount. The State agrees to reduce the interest rates on its certificates of deposit by two percent for such participating lenders.	The State legislature explicitly found that minority and women business enterprises have been historically excluded from access to capital in the marketplace, and that such exclusion has been a significant barrier to the development and expansion of such businesses.

SUMMARY OF STATE OF WASHINGTON'S LINKED DEPOSIT LOAN PROGRAM

The following is a summary of a phone conversation Franklin Lee had with Doug Eckstein, Deputy Treasurer for the State of Washington, (360) 902-9011, regarding the State of Washington's Linked Deposit Program for certified M/WBE firms.

- The Linked Deposit Program ("LDP") for M/WBEs in the State of Washington was first established in 1993. The initial financial commitment by the State for this program was $50 million. The program has been in effect ever since 1993, and in 2004, the legislature authorized an increase in financial commitment of State deposits of up to $100 million to support this program. Only certified M/WBE firms are eligible for the benefits from this program.

- This linked deposit program is basically a State subsidy of up to a 2% discount of the interest rate that banks charge for real estate loans, lines of credit, financing of accounts receivable, working capital loans, equipment purchase loans, and other related business financing. The State has authorized the Treasurer to use up to $100 million of the State's short-term surplus funds to purchase certificates of deposit in an amount equal to the cumulative total of commercial loan amounts issued by financial institutions to certified M/WBE firms. (These certificates of deposit are issued on a bank-wide basis for all loans issues by a particular bank to certified M/WBEs.) The LDP reduces the amount of interest to be paid by the financial institutions on the State's LDP certificates of deposit by 2%, provided the financial institutions agree to reduce the loan interest rates for M/WBE loan applicants by a corresponding percentage. No more than a 1% loan origination fee may be charged by the banks on these loans. The maximum loan term under this program is 10 years. The financial institutions make their loan decisions using their normal underwriting criteria and collateral requirements. The State offers no loan guarantees under this program. If an M/WBE loan applicant defaults, the bank has no recourse against the certificate of deposit or the State. Accordingly, collateral requirements for these loans are the same as for any other kind of loan.

- Although the LDP is very popular with the 20 participating banks and with the certified M/WBEs, the reality is that there are no loans being made by the banks that would not have been made without the LDP, since the underwriting criteria have not been affected in any way. In this sense, this Linked Deposit Program does not enhance access to credit for M/WBE firms. However, for those loans that are being made to M/WBE firms, the interest rates are supposedly discounted by 2%. The intent was that this program would enable M/WBEs to receive loans that were 2% below market rate. Yet, the State confesses it has no ability to determine whether banks are passing on this rate subsidy by charging rates that are actually 2% below market rates since they can always claim that if a firm is paying any rate that is higher than market rate, that this is because of other underwriting considerations. There is also no way for the State to determine whether banks are unduly marking M/WBE loan rates up higher so that the alleged 2% "discount" only brings the rate back down to market rate levels. Therefore, it is very important the M/WBEs shop around to make sure they are getting below market rates on these loans based on their credit scores.

- Washington's LDP model does not cost the banks anything to participate, and allows them to market reduced rate commercial loans to certified M/WBEs. The State, however, is earmarking $100 million of its deposit funds every year for a 2% reduction in return on investment (or $2 million).

- Currently, within the program, approximately $60 to $65 million in loans is outstanding to M/WBE loan recipients.

- The State of Washington has instituted a tracking and reporting system for this Linked Deposit Program that requires banks and loan applicants to complete and submit a three-page tracking report to the State's Office of Minority and Women Business Enterprise at the time of loan application and approval. The M/WBE firms are required to fill in their M/WBE certification numbers on the form. The banks are required to provide information on the form regarding the type of loan made, the interest rate, and other terms of the approved loan. Additional information reported in this tracking report form includes information about whether the loan would have been made in the absence of the LDP feature, and the economic impact of the loan on jobs and the degree to which the LDP has contributed to the applicant's ability to obtain financing.

- The State has formed a task force comprised of interested businesses, banks, and three State agencies to review the administration of the program and to recommend improvements.

SUMMARY OF STATE OF WASHINGTON'S LINKED DEPOSIT LOAN PROGRAM

The following is a summary of a 11/4/05 phone conversation Franklin Lee had with Sam Wagner, Assistant Director for the State of Washington's Office of Minority and Women Business Enterprise, (360) 704-1193, (e-mail: swagner@omwbe.wa.gov) regarding the State of Washington's Linked Deposit Program for certified M/WBE firms:

Background / Demand for Financing (Washington vs. Maryland)

1. The State of Washington's M/WBE program was modified through the passage of Initiative 200 which eliminated the ability of the State of Washington to use mandatory M/WBE participation goals on State contracts. This resulted in a significant decrease in the contract participation levels of certified M/WBE firms on State contracts. However, the State continues to certify M/WBE firms to track their participation in State contracts, and presently has approximately 2000 certified M/WBE firms. (By comparison, the State of Maryland has approximately 3500 certified M/WBE firms, and for FY 2004, those certified M/WBE firms were awarded approximately $471 million in State of Maryland contracts).

2. The State of Washington has had a Linked Deposit Loan Program since 1993. This Linked Deposit Loan Program was limited to certified M/WBE firms. However, the loans were not limited to State contracts, and included a variety of different types of commercial loans, including real estate, term loans, and lines of credit. These loans are issued by banks to certified M/WBE firms with a 2% reduction in interest rates that is subsidized by the State's willingness to purchase CD's from those banks with reduced rates of return. In 1993, the size of the loan pool was $50 million.

3. At this $50 million level, the waiting list for applicants was frequently as long as 9 to 15 months. (Because of this lengthy waiting period, outreach was not a priority in promoting the success of the program. There has been no shortage of loan applicants.)

4. As a result of the lengthy waiting list of loan applicants, this past year, the State increased the size of the loan pool from $50 million to $100 million, and capped the size of real estate loans at $1 million. (The real estate loans were absorbing a sizable portion of the available loan pool.) Many firms that have taken advantage of this program do not sell goods or services that the State would normally purchase (e.g., beauty shops, gas stations, restaurants).

Program Costs and Burdens

5. There are approximately 20 banks participating in the Linked Deposit Loan Program. They do not contribute anything to the loan pool which is funded entirely through below-market earnings (i.e., 2% lower rates of return) from Certificates of Deposit purchased at the participating banks by the State. At the current $100 million level of financial commitment by the State to this program, the State is contributing $2 million of forfeited revenue to the operation of this program every year.

Program Effectiveness and Limitations

6. Because the Linked Deposit Loans are issued by banks using the banks' normal underwriting criteria and collateral requirements, this program does not increase the number or size of loans that are available to certified M/WBEs. No loan gets issued under this program that would not have been issued otherwise. Rather, for those loans that are issued to certified M/WBEs, the interest rates that are charged by the banks on such loans are discounted by 2%. Accordingly, M/WBE firms that are not eligible for the loans under standard banking underwriting criteria are not assisted by this program.

7. Over the course of the last five years, 185 certified M/WBE firms have taken out a total of 317 loans from this program totaling $112 million in value. (The average loan size was about $350,000). This means that approximately 1815 of the 2000 certified M/WBE firms in the State of Washington that have not benefited from this program.

Tracking and Reporting Requirements

8. For the last three years of the program, the State has required each participating bank to file a two-page tracking and reporting form for each loan that it makes under the linked deposit loan program. Information captured on such reporting forms includes the following (see form attached):

   - Name, address, and OMWBE certification number of loan applicant.
   - Bank name of loan issuing lender, bank address, bank representative, title, phone, and fax number.
   - Amount of loan request, loan approval date, loan term, interest rate, type of loan (i.e., line of credit, term loan, real estate loan)
   - Description of purpose of loan
   - Statement of whether loan would have been issued in the absence of Linked Deposit Program (Optional)
   - Loan applicant's profile (number of employees, jobs saved and created by loan, effectiveness of linked deposit program loan in enhancing access to financing).

   The banks have not complained at all about the administrative burden of these reporting requirements, and have praised the overall program because it gives them a competitive advantage over non-participating banks in making loans to qualified small businesses.

LINKED DEPOSIT PROGRAM

Washington State Linked Deposit Program Loan Application Tracking Report

Background

The Washington State Office of the State Treasurer (OST), Office of Minority and Women's Business Enterprises (OMWBE), and the Department of Community, Trade, and Economic Development (CTED) is responsible for administering the Linked Deposit Program. As per RCW 43.63A.690, CTED, in consultation with OMWBE, is required to develop performance indicators that measure the Linked Deposit Program's impact, "in the areas of job creation and retention and providing access to capital to minority and women's business enterprises." As a requirement for participation, lenders are expected to collect and submit certain information critical to the monitoring process as identified on this form. Both the lender and applicant are required to complete the Loan Application Tracking Report for each loan to assist CTED and OMWBE in developing the required performance indicators.

Instructions

For the Applicant: Participating lenders must have the loan applicants complete and sign the "Applicant Information" and "Applicant Profile" sections of the Tracking Report.

For the Lender: The lender must complete the "Lender Information" and "Loan Information" sections of the Tracking Report at the time the loan application process is completed and the lender has made a final determination on the loan request.

For Both: All sections of the Tracking Report must be completed for the loan to be enrolled in the program. All firms are subject to verification of OMWBE certification before loans are enrolled in the program. There is a $100 million program cap for the amount of loans subject to the 2% interest rate reduction. In the event funds are not immediately available, loans are placed on a waiting list on a first come first serve basis.

This form may be reproduced as needed.

Fax Completed Tracking Report to:
Sam Wagner, OMWBE, 360-586-7079

For program information contact:

Sam Wagner
Office of Minority and Women's Business Enterprises
406 S. Water St.
Olympia, WA 98504
Phone: 360-704-1193
Fax: 360-586-7079
Email: swagner@omwbe.wa.gov

For bank enrollment & CD information contact:

Jill Gravatt
Office of the State Treasurer
P.O. Box 40200
Olympia, WA 98504-0200
Phone: 360-902-9011
Fax: 360-704-5141
Email: jill@tre.wa.gov

For information on performance measures and reporting contact:

Jim Keogh
Department of Community, Trade, and Economic Development
Business Finance Unit
Phone: 360-725-4041

Washington State Linked Deposit Program
Loan Application Tracking Report

A.) Applicant Information (to be completed by certified firm)

Business Name

Business Address

City State Zip Code

Name of Applicant (please print)

OMWBE Certification Number

B.) Lender Information (to be completed by bank representative)

Bank

Bank Address

City Zip Code State

Bank Representative (please print)

Title

Phone Fax

C.) Loan Information

1.) Amount of Loan Request: ______

2.) Loan Approval Date: ______

3.) Loan Term: ______

4.) Interest Rate: ______

5.) Type of loan:

☐ Line of Credit ☐ Term Loan ☐ Real Estate Loan

6.) Describe what the loan funds will be used for:

7.) Would this loan have been approved in the absence of the Linked Deposit Program?
If the lender is unable to provide the requested information, check "PROPRIETARY."

Yes ______ No ______ Proprietary ______

Small Business Enterprise Loan Fund - Web Page
(Economic Development Business Works in Charlotte)[6]

What is the Small Business Enterprise (SBE) Loan Fund?
The SBE Loan Fund is an innovative public/private fund established to assist small businesses with gaining access to capital for seasonal working capital support, permanent working capital, and expansion capital. The fund will be capitalized at $10 million.

Who Are the Fund Investors/Contributors?
The following public and private entities have contributed to the SBE Loan Fund:

- Bank of America
- Branch Banking and Trust
- City of Charlotte
- First Charter
- First Citizens
- Foundation For The Carolinas
- Piedmont Natural Gas
- RBC Centura Bank
- Self Help
- SouthTrust Bank
- John S. and James L. Knight Foundation
- Time Warner
- Wachovia Corporation

Eligible Businesses

- Existing for-profit small businesses located in any of the Charlotte Metropolitan Statistical Area, (excluding York county), and that meet all other eligibility requirements, may apply to be given consideration for the SBE Loan Fund program.
- Businesses must meet the eligibility requirements of a Small Business Enterprise (SBE) as defined by the City of Charlotte.
- Businesses must have been operating for a minimum of 12 consecutive months. Start-up business ventures will be subject to increased underwriting scrutiny.
- Eligible businesses must be considered just below "bankable" by traditional commercial lenders.
- Prohibited businesses include, but are not limited to, adult businesses, bars, tattoo parlors, body-piercing shops, pawnshops, check cashing businesses and car sales lots.

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[6] The URL for this web page is as follows - www.charmeck.org/Departments/Economic+Development/Small+Business/SBE+Loan+Fund.htm

Loan Fund Administration

The Self Help office located at 926 Elizabeth Ave, Suite 302, Charlotte, NC, 28204, administers the SBE Loan Fund program. The phone number is 704-409-5900.

How does the SBE Loan Fund program work?

- Although the underwriting guidelines of the SBE Loan Fund program are more flexible than traditional loan underwriting guidelines, businesses must still demonstrate, among other things, loan repayment ability, collateral availability, adequate good credit history, management history, etc.
- Businesses are strongly encouraged to contact a Technical Assistance Provider of their choice to determine eligibility for the SBE Loan Fund program. A partial list of available Technical Assistance Providers is available.
- Businesses are strongly encouraged to utilize the SBE Loan Fund Program Self Assessment Test to identify readiness for seeking financing from the SBE Loan Fund.
- Complete application packages are submitted to Self Help for review. Self Help will determine program eligibility and make the approval decision. Depending upon the dollar amount of the loan request, loan approval will be primarily at the sole discretion of Self Help, (loans $100,000 or less).

The normal timeline for closing an approved loan is approximately 2 months, but may take longer depending upon circumstances.

Executive Summary
Availability of Financing to Small Firms Using the Survey of Small Business Finances
(Karlyn Mitchell and Douglas K. Pearce for SBA Office of Advocacy, May 2005)[7]

Executive Summary

This research adds to the literature on discriminatory lending practices by banks and nonbanks in their lending to small US businesses. Although the existing research hints at discriminatory practices along ethnic and gender lines, shortcomings in the data have prevented researchers from drawing definite conclusions. Data limitations have also prevented them from seeking evidence of discriminatory practices beneath the aggregate level. This research seeks to overcome some of these limitations by using the relatively little-studied 1998 Survey of Small Business Finances (SSBF), a data set with more extensive coverage of ethnic minority and female small business owners than available to past researchers.

In this study we put all small business lenders into one of two groups – banks (commercial banks) and "nonbanks" (finance companies, mortgage banks, factors, other businesses, government agencies, family and friends) -- and put all small business loans into one of two categories: "relationship loans" (line-of-credit loans) and "transaction loans" (motor vehicle loans, mortgages, equipment loans, capital leases, and other loans). Many researchers regard line-of-credit loans as quintessential relationship loans. A lender that grants a credit line makes an up-front commitment to lend a pre-set maximum sum over a time horizon at dates selected by the borrower. Because such open-ended commitments expose lenders to additional risks, many researchers speculate that lenders will not grant credit lines to small business owners without prior, close relationships that enable lenders to learn "soft" information about owners and their firms. In contrast, "transaction loans" are one-shot injections of cash made shortly after loan approval and used to acquire tangible assets that can serve as loan collateral. Because transaction loans subject lenders to less risk than relationship loans, many researchers speculate that lenders require little or no soft information about owner-borrowers that relationships can provide.

We used the categorizations described above to test 10 hypotheses about lending practices on data from the 1998 SSBF. Hypotheses H1 – H5 test whether data on outstanding loans show evidence of discriminatory lending along ethnic and gender lines. We tested for evidence of discrimination in all outstanding loans and in outstanding loans of both types (relationship and transaction) from lenders of both types (banks and nonbanks). Hypotheses H 6 – H 9 test whether data pertaining to loan denial decisions by banks and nonbanks on applications for relationship and transaction loans show evidence of discriminatory lending along ethnic and gender lines. Investigating loan denial decisions required us to recognize that some small firm owners who need loans may nevertheless not apply for fear of having their applications denied, behavior that could potentially bias the statistical evidence. We adopted appropriate econometric techniques to address this potential "selection bias." Finally, we examined the subset of approved loan applications for evidence that lenders required owners of female- and ethnic minority-led firms to have attributes superior to those of white male-led firms in order to secure a loan. We formalized this test as hypothesis H10.

[7] The full report - *Availability of Financing to Small Firms Using the Survey of Small Business Finances* (Karlyn Mitchell and Douglas K. Pearce for SBA Office of Advocacy, May 2005 can be found at www.sba.gov/library/reportsroom.html and is included with this report as an attached file.

Our results show the merits of disaggregating loans by lender type and loan type when investigating possible discrimination in lending: we found that aggregate data could mask behavior that a disaggregated approach revealed. We found that for ethnic minorities as a group, evidence of discriminatory lending exists in outstanding transaction loans from banks and nonbanks and in outstanding transaction loans from banks. We also uncovered evidence from all outstanding loans and from outstanding bank transaction loans that African-American and Hispanic firm owners are less preferred borrowers. We found no evidence in the pattern of outstanding loans that female- or Asian-led firms were less preferred borrowers.

Initially, we found from the pattern of loan denial decisions that African-American firm owners faced significantly higher loan denial probabilities than otherwise identical white male firm owners for transaction and relationship loans from banks; we found the same to be true for Hispanic firm owners and also found that Hispanic firm owners faced significantly higher loan denial probabilities for transaction loans from nonbanks. These findings were produced by estimating a loan denial model alone. However, it is well-known that if firm owners who did not apply for loans differ systematically from credit-seeking firm owners, the estimated loan denial probabilities are biased, and to remove the bias a loan application model must be estimated jointly with the loan denial model. Whether single or joint estimation is required is purely an empirical matter. When we recomputed loan denial probabilities based on a loan denial model jointly estimated with a loan application model, we found a somewhat different pattern: we found that both African-American and Hispanic firm owners faced significantly higher loan denial probabilities for transaction loans from both banks and nonbanks, but not relationship loans from either type of lender. Further investigation showed that this econometric evidence of discrimination is likely to be highly economically significant as well. Further, we found no evidence suggesting that female- or Asian-led firms faced loan denial probabilities different from those of firms led by white males.

When we examined whether lenders exercise preferential lending by requiring less preferred borrowers to have characteristics more desirable than otherwise identical preferred borrowers to be induced to lend, we found little evidence of this behavior in the data.

Abstract and Introduction:
Discrimination in the Small Business Credit Market
(Blanchflower, Levine, and Zimmerman, 2003)[8]

Abstract — We use data from the 1993 and 1998 National Surveys of Small Business Finances to examine the existence of racial discrimination in the small-business credit market. We conduct an econometric analysis of loan outcomes by race and find that black-owned small businesses are about twice as likely to be denied credit even after controlling for differences in creditworthiness and other factors. A series of specification checks indicates that this gap is unlikely to be explained by omitted variable bias. These results indicate that the racial disparity in credit availability is likely caused by discrimination.

I. Introduction

Discrimination occurs whenever the terms of a transaction are affected by personal characteristics of the participants that are not relevant to the transaction. In credit markets, discrimination on the basis of race and/or gender exist if loan approval rates or interest rates charged differ across groups with equal ability to repay. Although conceptually this definition is rather straightforward, empirically it is often difficult to operationalize because the data requirements to make ceteris paribus comparisons across firms are extensive.

In this paper we use data from the 1993 and 1998 National Surveys of Small Business Finances to examine the existence of discrimination in the small-business credit market. We initially provide qualitative evidence consistent with the view that blacks are discriminated against in this market. For example, we find that black-owned firms are much more likely to report being seriously concerned with credit market problems and report being less likely to apply for credit because they fear the loan would be denied. Although this evidence is suggestive of discrimination, it certainly does not represent strong evidence on its own.

We then take advantage of the wealth of information available in these data sources to conduct an econometric exercise designed to statistically identify discrimination in credit markets. Both years of this survey provide great detail regarding which firms applied for loans and which firms were approved, along with the characteristics of the firms, its creditworthiness, and other factors. Data from 1998 go even further by providing firms' credit ratings from Dunn and Bradstreet and the personal housing and non-housing net worth of the firms' owners that can be used as collateral to secure these loans. Although these factors go a long way towards creating ceteris paribus comparisons, we also provide a number of specification checks that enable us to further examine whether there are alternative explanations for our results.

We noted that black-owned firms, in particular, are substantially more likely to be denied credit than other groups and are charged higher interest rates for those loans that are approved than are other firms that are otherwise comparable. All the specification checks we conduct support the view that these results are unlikely to be attributable to other factors. Overall, our findings support the view that black owned firms are discriminated against in the small-business credit market.

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[8] The full report – *Discrimination in the Small Business* (Blanchflower, Levine, and Zimmerman, 2003) can be found at www.ciln.mcmaster.ca/papers/seconf/**credit**.pdf and is included with this report as an attached file.

Comparison between the Proposed Maryland Lending Equity Linked Deposit Program, Washington State Linked Deposit Program, and Charlotte SBE Loan Fund

	Lee/Loftin Proposed Linked Deposit Program	Washington State's Linked Deposit Program	City of Charlotte SBE Loan Fund
Administration By	A non-profit, Maryland-based, minority controlled and operated loan fund manager that has provided loans to minority and women owned businesses in the State of Maryland. The principals of the selected fund administrator must have at least ten years experience issuing and administering contract financing / working capital loans in the State of Maryland. An annual administration fee for the loan administrator will be reserved out of the accumulated loan pool, estimated at approximately of 2-3% of the loan pool amount. The contract for administration of this loan pool should be competitively bid out by DBED.	Bank Enrollment and CD information: Washington State Office of the State Treasurer. Program Information: Office of Minority and Women's Business Enterprises (OMWBE). Performance Measures and Reporting: Department of Community, Trade, and Economic Development (CTED). Banks and financial institutions have full responsibility for issuance and administration of loans pursuant to their normal underwriting criteria.	Self-Help Credit Union has responsibility for day-to-day administration of the Fund and approval of all loans up to $100,000. Loans greater than $100,000 are reviewed by a Credit Underwriting Committee, comprised of representatives of each institution and organization that made an investment of $25,000 or more.

Development of Underwriting Criteria and Loan Performance Indicators Measuring Impact	The Lending Equity Task Force has proposed the initial underwriting criteria and performance indicators; However, over time, the selected Administrator may enhance or modify the indicators with approval of a Credit Underwriting Oversight Committee (similar to that established under the Charlotte SBE Loan Fund).	Loan underwriting criteria vary by financial institution. However, the State determines the performance of overall linked deposit loan program by monitoring and establishing reporting requirements that focus on degree of job creation and retention resulting from loans, and the degree to which the program enhances access to capital for minority and women business enterprises. (Tracking Reports filed by banks for each loan with OMWBE, and annual reports issued by OMWBE in conjunction with CTED).	City of Charlotte, Self-Help Credit Union and other major corporations and foundations (including many of the major financial institutions) have joined together to provide a loan program to enable small businesses that have a higher credit risk profile than the traditional bank client to access credit. Credit Underwriting Committee adjusts criteria for loans periodically and provides oversight approval for loans exceeding $100,000.

Requirement of Banks To Participate	Financial institutions competing for a contract for *State Depository Services* for the General Fund are required to make CRA-eligible contributions to fund the loan pool at a minimum level of $1 million. Financial institution awarded this Depository contract is required to contribute $2 million per year for duration of contract until the loan pool is fully funded. Financial institutions competing for all State financial services contracts (i.e., disbursements, merchant services, lockbox, etc.) are incentivized to voluntarily contribute to the loan pool. **Alternative approach to achievement of initial funding level: DBED to make up difference between level of private contributions and the proposed $10 million initial funding level through transfer of other State economic	Lenders are expected to collect and submit certain information critical to the monitoring process. Complete Loan Application Tracking Report for each loan. Lenders must verify certification of M/WBE loan applicants with OMWBE before loans are enrolled in the linked deposit program. State makes single CD deposit with each participating financial institution based upon loan rate subsidy required for aggregate loan amounts placed with M/WBE firms by the participating financial institution. Banks may not charge more than 1% loan origination fees.	Banks make voluntary contributions. Some of the banks that participate include Bank of America, Branch Banking and Trust, First Citizens, RBC Centura Bank, SouthTrust Bank, and Wachovia Corporation.

	development loan funds		
Cap on Total Funding Level	The pilot loan pool size is $10 million to initiate loans, and the optimal operating loan pool size should be $50 million. Initially, no less than 1/3 of the loan fund pool shall be reserved for line of credit transactions.	$100 million cap for the amount of loans subject to the 2% interest rate reduction; if funds are not available, loans are placed on a waiting list (this cap was recently increased from $50 million).	Capitalized at $10 million.
State Subsidy	It is anticipated this loan pool is funded by the State and financial institutions competing for State financial services contracts. State annually contributes $2 million in the fund pool which more than covers any costs for establishing and administering the linked deposit loan program, as well as below-market interest rate subsidies.	2% discount of the interest rate that banks charge. Treasurer purchases CDs in an amount equal to the cumulative total of commercial loan amounts issued by financial institutions to certified M/WBE firms, and accepts 2% reduction in rate of return for those CDs. Max. cost to the state: $2 million in loss of interest income from CD investments.	The actual city/state contribution level has not yet been determined.

Types of Lending, Loan Amount Limits, and Eligibility Requirements	Line of Credit: variable up to $1 million, interest rate of 2% below market. Term Loans: $250,000 limit, interest rate of 2% below market. <u>Line of Credit</u> • Minority and women owned businesses can pre-qualify for line of credit funding prior to receiving a contract, however, actual funding cannot be provided until a contract has been awarded; business meets pre-established minimum standards set forth by the Administrator; business loan applicant agrees to waive certain provisions of the Privacy Act for the purpose of collecting data on the liked deposit program. • Conditions for revolving line of credit are that the size of the line of credit must not exceed 80% of the value of pending	Types of Loans: Line of Credit. Term Loan. Real Estate Loans ($1 million limit).	The Fund targets companies that currently are just below bankable and may become eligible for traditional bank lending within 3-5 years with technical assistance and management support. The customer must be a for-profit business and qualify as a SBE (defined by City's Small Business Opportunity (SBO) Program) and its principle place of business located within the Charlotte-Metropolitan Statistical Area (MSA), excluding York County. ▪ Proven track record of successful management based on documented management expertise (resume), credit score and financial records. ▪ 12 months in business with start-ups considered on an exception basis. ▪ Desired industry segments include construction, manufacturing, services, transportation services and retail trade and align with anticipated areas of growth within Charlotte's economy during the coming decades. ▪ Credit risk ratings "B" & "C" based on credit scores of 650 to a low of 500; no

	receivables and State contracts to be performed by loan applicant. Applicant's principals must have relevant experience in the trade or business in which financing is being sought. Applicant agrees to pledge receivables from contracts as a source of repayment. Personal guarantees must be provided to the extent available by the applicant. Applicant will agree to draws on an as needed basis on the Line of Credit based upon contract invoice amounts and other receivables. <u>Term Loan</u> • Conditions for business term loans are that the size of the loan may not exceed $250,000, but may be used for any approved business purpose. Personal guarantees must be provided and available		bankruptcies within past 2 years, substantial number of collection accounts or judgment not acceptable ▪ Must <u>disclose</u> any conviction for criminal offenses, federal, state, county and city tax liens must be satisfied prior to closing and property taxes must be current. ▪ At application must exhibit $1.00 of cash flow for every $1.00 of existing expenses and debt obligation and within 12 months of loan closing must exhibit $1.15 of cash flow for every $1.00 of principal and interest payments. ▪ Loan must be <u>adequately</u> secured by business and personal assets, SBA guaranty (if applicable) and SBE collateral reserve account. ▪ Maximum 7 to 1 ratio of debt to tangible net worth of company. ▪ Minimum amount of personal liquidity (exclusive of retirement accounts) is required and

	business and personal assets must be pledged as collateral by the applicant. The approval process for a complete application should take no longer than 30 days.		amount is determined on a case by case basis. ▪ Borrower should expect to provide personal and corporate loan guarantees.
Loan Origination Fee, Loan Term, and Underwriting Requirements	<u>Line of Credit</u> Revolving lines of credit to be repaid in full within 30 days of final contract payment. <u>Term Loan</u> Term loan repayment terms may vary up to 36 months, or longer if necessary, and not to exceed 60 months, depending upon loan pool availability.	Max. of 1% loan origination fees may be charged by the banks on these loans. Max. of 10 year loan term.	Fees typically range between 2-3% of fund amount; therefore an estimate is \$200-\$300k.
Cost to the Bank	Banks makes minimum contribution requirements as indicated above (i.e., those competing for Depository Services) and voluntary contributions (i.e., banks competing for all other services) to the loan pool.	Bank makes loan decisions using their normal underwriting criteria and collateral requirements. If loan defaults, bank has no recourse against the CD or the State (State does not offer loan guarantees).	Banks make voluntary contributions to the fund.

Oversight	**Amended proposal: Establish an Oversight Committee similar to that for Charlotte SBE Program**	A task force comprised of interested businesses, banks, and 3 state agencies reviews the administration of the linked deposit program and recommends improvements.	An Operating Committee comprised of representatives of each institution and organization that made an investment of $25,000 or more is responsible for governing and monitoring the Fund.
Marketing	The State shall aggressively market the availability of the linked deposit program through all channels (i.e., events, forums, websites, newsletters, PSAs, etc.). GOMA and other State agencies shall specifically refer all minority and women owned business to the linked deposit program for prequalification.	Given the strong demand and the length of the waiting list for these loans (e.g., between 9 and 15 months), outreach and marketing was a very low priority.	Traditional channels including website, referrals, etc. Note: Businesses are strongly encouraged to utilize the SBE Loan Fund Program Self Assessment Test to identify readiness for seeking financing from the SBE Loan Fund.
Drawbacks	The success of the program is largely contingent on the generosity of the banking community that is currently unknown, and the willingness of the State and/or DBED to provide funding for the pilot initiative.	Linked deposit program does not increase the number or size of loans that are available to certified M/WBEs (since banks use normal underwriting criteria). State is unable to determine if banks unduly mark M/WBE loans rates higher so that the alleged 2% discount merely brings the interest rate back down to market rate levels.	

Advantages for Participants	Increases access to loans and credit for M/WBE firms that otherwise would not be able to obtain it; reduces cost of credit for M/WBEs; increases access to working capital for M/WBE firms working on State contracts. Participating banks can receive CRA credit for contributions to loan pool.	Reduces the cost of credit for certified M/WBEs that are eligible for loans under traditional banking underwriting criteria. Provides participating banks with competitive advantage over non-participating banks through reduced interest rates for loan products.	Increases access to loans and credit for small businesses (not limited to M/WBEs) that would otherwise not be elibible for loans from traditional financial institutions. Participating banks can receive CRA credit for contributions to loan pool.
How Participating in the Linked Deposit Program is Coordinated with Providing State Depository Services	In considering which financial institution to use for State depository services, the Treasurer shall consider the level of commitment for participation and contributions by financial institutions in the linked deposit program. In this regard, when selecting prospective financial services firms for the State of Maryland, the Treasurer shall consider the financial institution's voluntary efforts to participate in the linked deposit	Only financial institutions agreeing to participate in the program under the 2% reduction in loan rate requirement are eligible to apply for reduced-rate-of-return Certificates of Deposit from the State	

	program during the 5 years prior to response to the new RFP for financial services in Maryland. Financial institutions competing for *State Depository Services* are required to fund the loan pool at a minimum of $1 million. The institutions will receive points for the level of funding participation as follows: • Low Participation: 1 to 19 points (i.e., $1 million) • Medium Participation: 20 to 39 points • High Participation: 40 to 60 points The selected financial institution for *State Depository Services* will be required to contribute $2 million to the loan pool on an annual basis. Financial institutions competing for all other bank services (i.e., disbursements, merchant services, lockbox, etc.)		

	contracts may voluntarily contribute to the loan pool. The institutions will receive points for their voluntary participation level of funding as follows: • Low Participation: 1 to 19 points • Medium Participation: 20 to 39 points • High Participation: 40 to 60 points		

Appendix 9

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CF 6lr1054

Bill No.: ______________________

Requested: ______________________

Committee: ______________________

Drafted by: Wilson
Typed by: Rita
Stored – 12/06/05
Proofread by ______________________
Checked by ______________________

By: **Senator Jones (Co–Chair, Task Force on Lending Equity Within Financial Institutions Providing State Depository Services)**

A BILL ENTITLED

AN ACT concerning

State Treasurer – Designation of Financial Institution for Banking Services

FOR the purpose of requiring the Treasurer to give a certain percentage of the weight of the decision to certain standards in deciding whether to designate a financial institution as a depositary for State money and make an agreement with a financial institution for a banking service; requiring the Treasurer to consider whether a financial institution received a certain rating on its most recent examination under the federal Community Reinvestment Act of 1977; requiring the Treasurer to consider certain Maryland–specific information if a financial institution operates in a state other than Maryland; requiring the Treasurer to consider whether, during a certain period, a court in Maryland has found, in a final adjudication, that a financial institution has violated an antidiscrimination statute or regulation; authorizing the Treasurer to consider whether, during a certain period, a court outside Maryland has found, in a final adjudication, that a financial institution has violated an antidiscrimination statute or regulation; authorizing the Treasurer to determine how to assess a certain violation if the violation was committed by an affiliate of a certain financial institution or an entity acquired by a certain financial institution; requiring the Treasurer to consider whether a certain financial institution has demonstrated that during a certain period the financial institution has met

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.

certain criteria; and generally relating to the designation of a financial institution as a depositary and an agreement with a financial institution for banking services.

BY adding to

Article – State Finance and Procurement

Section 6–203

Annotated Code of Maryland

(2001 Replacement Volume and 2005 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Finance and Procurement

6–203.

(A) THE TREASURER SHALL GIVE 15% OF THE WEIGHT OF THE DECISION TO THE STANDARDS ESTABLISHED IN THIS SECTION IN DECIDING WHETHER TO:

(1) DESIGNATE A FINANCIAL INSTITUTION AS A DEPOSITARY FOR STATE MONEY UNDER § 6–205 OF THIS SUBTITLE; AND

(2) MAKE AN AGREEMENT WITH A FINANCIAL INSTITUTION FOR A BANKING SERVICE UNDER § 6–229 OF THIS SUBTITLE.

(B) (1) THE TREASURER SHALL CONSIDER WHETHER THE FINANCIAL INSTITUTION RECEIVED A RATING OF "NEEDS IMPROVEMENT" OR "SUBSTANTIAL NONCOMPLIANCE" IN ITS MOST RECENT EXAMINATION UNDER THE FEDERAL COMMUNITY REINVESTMENT ACT OF 1977, P.L. NUMBER 95–128.

(2) IF A FINANCIAL INSTITUTION OPERATES IN A STATE OTHER THAN MARYLAND, THE TREASURER SHALL CONSIDER MARYLAND–SPECIFIC INFORMATION THAT IS PROVIDED WITHIN THE ASSESSMENT AREA SECTION OF THE COMMUNITY REINVESTMENT ACT REPORT.

(C) (1) THE TREASURER SHALL CONSIDER WHETHER, DURING THE PREVIOUS 5 YEARS, A COURT IN MARYLAND HAS FOUND, IN A FINAL ADJUDICATION, THAT A FINANCIAL INSTITUTION HAS VIOLATED ANY ANTIDISCRIMINATION STATUTE OR REGULATION.

(2) THE TREASURER MAY CONSIDER WHETHER, DURING THE PREVIOUS 5 YEARS, A COURT OUTSIDE MARYLAND HAS FOUND, IN A FINAL ADJUDICATION, THAT A FINANCIAL INSTITUTION HAS VIOLATED ANY ANTIDISCRIMINATION STATUTE OR REGULATION.

(3) THE TREASURER MAY DETERMINE HOW TO ASSESS A VIOLATION UNDER PARAGRAPH (1) OR (2) OF THIS SUBSECTION IF THE VIOLATION WAS COMMITTED BY:

(I) AN AFFILIATE OF THE FINANCIAL INSTITUTION; OR

(II) AN ENTITY ACQUIRED BY THE FINANCIAL INSTITUTION.

(D) THE TREASURER SHALL CONSIDER WHETHER THE FINANCIAL INSTITUTION HAS DEMONSTRATED THAT DURING THE PREVIOUS 5 YEARS, THE FINANCIAL INSTITUTION HAS:

(1) SUCCESSFULLY MADE LOANS IN MARYLAND THROUGH STATE OR FEDERAL LENDING PROGRAMS DESIGNED TO ASSIST SMALL AND MINORITY–OWNED BUSINESSES;

(2) HAD AN ACTIVE OUTREACH PROGRAM TO ASSIST SMALL AND MINORITY–OWNED BUSINESSES THROUGH WHICH THE FINANCIAL INSTITUTION HAS MADE EFFORTS IN MARYLAND; AND

(3) ESTABLISHED STRATEGIC PARTNERSHIPS IN MARYLAND WITH ENTITIES WHOSE MISSION IS TO PROVIDE TECHNICAL ASSISTANCE TO SMALL AND MINORITY–OWNED BUSINESSES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2006.