

Bringing Broadband to Maine's Rural Communities

Tuesday, October 25, 2016

The Community Reinvestment Act

- The Community Reinvestment Act encourages depository institutions to meet the credit needs of low- and moderate-income (LMI) individuals and communities
- Passed in response to redlining in access to loans and credit
- Requires agencies to evaluate the performance of banks in meeting the credit needs in the communities in which they are chartered.
- Passed in 1977—has been revised since then

What Gave Rise to the CRA?

- A result of community struggle and activism
- Part of the neighborhood movement of 1970s-80s
- A campaign against deteriorating conditions in urban, lower-income neighborhoods, related to:
 - Redlining
 - Disinvestment

Purpose of the CRA

- Encourages federally insured banks and thrifts to help meet the credit needs of their entire communities, in particular, historically underserved people and places (this may include working together with community organizations to promote the availability of credit and other banking services)
 - Low- and moderate-income people
 - Low- and moderate-income geographies
 - Underserved or distressed non-metropolitan middle-income geographies, or certain designated disaster areas
 - Must be consistent with prudent, safe, and sound business operations

Purpose of the CRA (cont.)

- The CRA requires regulators of federal depository institutions to assess the record of each bank and thrift in helping to fulfill their obligations to the community and to consider that record in evaluating applications for charters or for the approval of bank mergers, acquisitions, and branch openings.
 - An affirmative obligation
 - Rating of Outstanding, Satisfactory, Needs to Improve, or Substantial Noncompliance
 - Interpreted through implementing regulations and guidance
 - Enforcement primarily through corporate application process and reputation risk
 - CRA contains no civil or criminal liability provisions

Q&A §__.12(g)(4)(iii) New Example - Activity in Underserved Nonmetro Middle-Income Geo

- Provides guidance on how examiners consider activities related to the expansion of broadband infrastructure in CRA defined underserved non-metropolitan middle-income geographies
- Availability of broadband is essential to:
 - Access digital banking services, particularly in light of shift away from branch-based delivery systems
 - Promote economic development as small businesses become more reliant on related technologies for payment processing systems, remote deposit capture, access to credit facilities and markets, and to deliver products
 - Important to competitiveness, job creation, innovation, and expansion of markets for American businesses

Public Welfare Investment Authority (PWI)

- OCC's public welfare investment (PWI) authority is one tool for a national bank to help meet the credit needs of its communities
- National banks may make investments, directly or indirectly, that are primarily designed to promote the public welfare such as by providing housing, services, or jobs, under the investment authority in 12 USC 24 (Eleventh) and the implementing regulation, 12 CFR 24.
- By "investments," we mean both equity investments and debt investments, such as equity equivalent investments or other debt.

PWI (cont.)

- National bank PWI examples:
 - Support for affordable housing and other real estate development
 - Equity for start-up and expansion of small businesses
 - Investments in CDFIs
 - Activities that help to revitalize or stabilizing a government-designated area.
- Other financial institutions follow different PWI rules:
 - Federal savings associations are supervised by OCC. However, they follow statutory and regulatory authorities that are different than for national banks.
 - Non-member state banks are supervised by the Federal Deposit Insurance Corporation.
 - Member state banks and holding companies are supervised by the Federal Reserve System .
- Financial institutions should consult with their respective regulators about whether a PWI would be considered consistent with their respective investment authorities.

PWI Requirements: Primary Purpose

- A national bank's PWI must primarily benefit at least one of the following (12 CFR 24.3)
 - Low- and moderate-income individuals
 - Low- and moderate-income areas
 - Areas targeted by a government entity for redevelopment
 - The investment would receive consideration under 12 CFR 25.23 (the Community Reinvestment Act regulation) as a "qualified investment."

PWI Requirements: Investment Limits

- **Limits on Aggregate Outstanding Investments - 12 CFR 24.4(a)**
 - Aggregate investments may reach 5 percent of a bank's capital and surplus
 - With prior approval, aggregate investments may go up to 15 percent of a bank's capital and surplus
- **Limited Liability – 12 CFR 24.4(b)**
 - Investments must be structured to not expose the bank to unlimited liability

PWI Requirements: Record-keeping

- A national bank making a public welfare investment under 12 CFR 24 shall maintain in its files information adequate to demonstrate that its investments meet the public welfare beneficiary standards and investment limit requirements. (12 CFR 24.7(b))

PWI & R/S Fiber Optic

- A national bank operating in the R/S Fiber Optic Cooperative's proposed service area recently requested and was granted permission by the OCC to purchase stock shares in the cooperative under the public welfare investment authority.
- The cooperative was organized to bring high-speed fiber optic connectivity to communities in west central Minnesota and provide broadband service to homes, farms, businesses, health care facilities, schools, and local government offices at prices significantly reduced from current commercial providers.
- Project would result in enhanced economic development opportunities for businesses and job creation for local residents.

How R/S Fiber Optic Met PWI Requirements

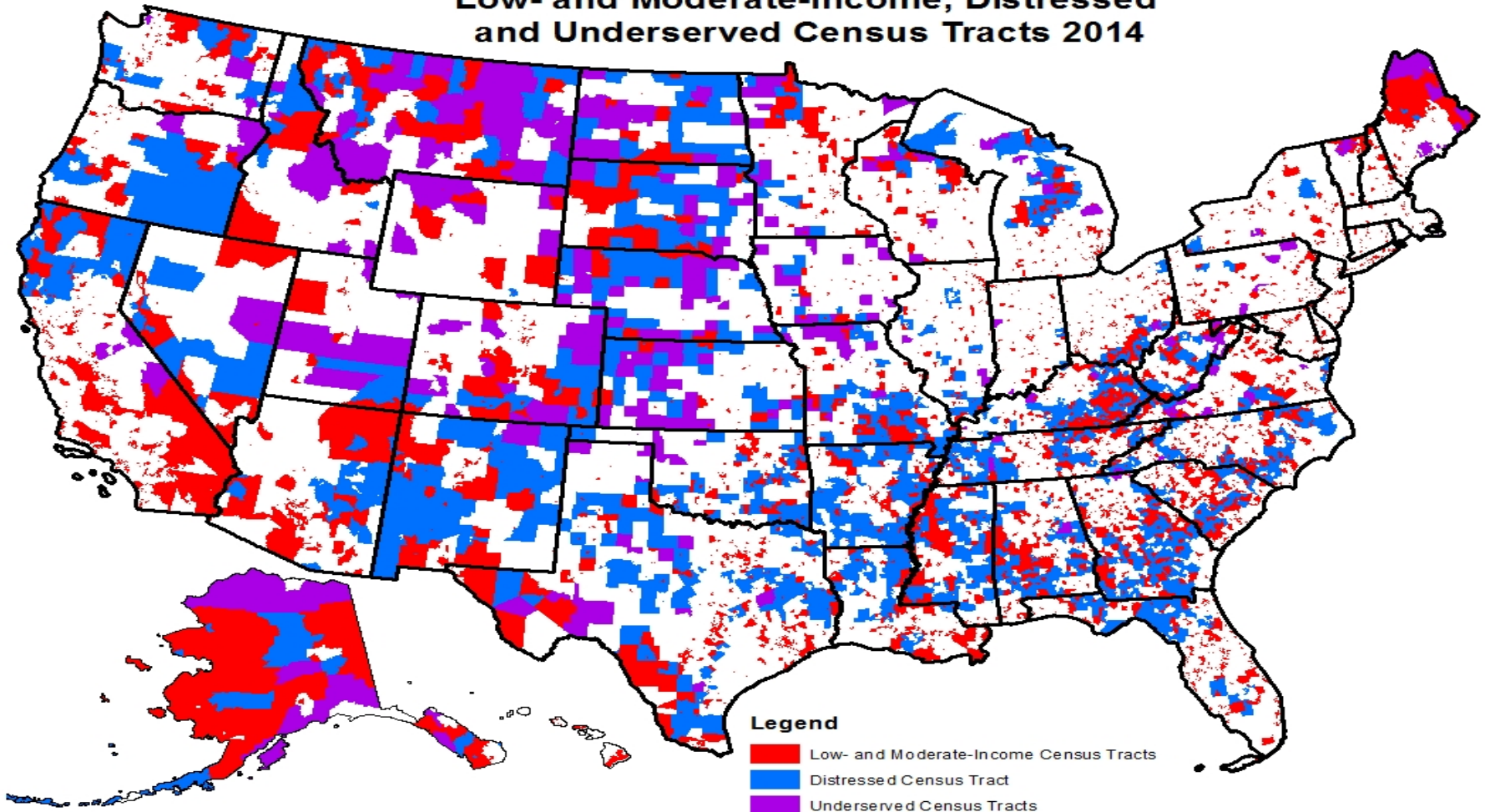
- Primary Purpose: Bank demonstrated that the investment will primarily benefit low- and moderate-income individuals, low- and moderate-income areas, and other areas targeted by a government entity for redevelopment
 - Project services census tracts that are moderate-income or in distressed non-metropolitan middle-income census tracts
 - Project creates permanent jobs that will be pay salaries that fall within the range of 80 percent of area median income of the targeted counties
 - Project receives financial support from government entities, including a grant from the state, loan from economic development authorities, and local tax abatement bonds
- Investment limits:
 - Bank's investment was less than 1 percent of its capital and surplus
 - Bank's purchase of preferred stock would not expose it to unlimited liability
 - No safety or soundness concerns regarding bank's investment

PWI Requirements: Fiber Optic Investment Activities

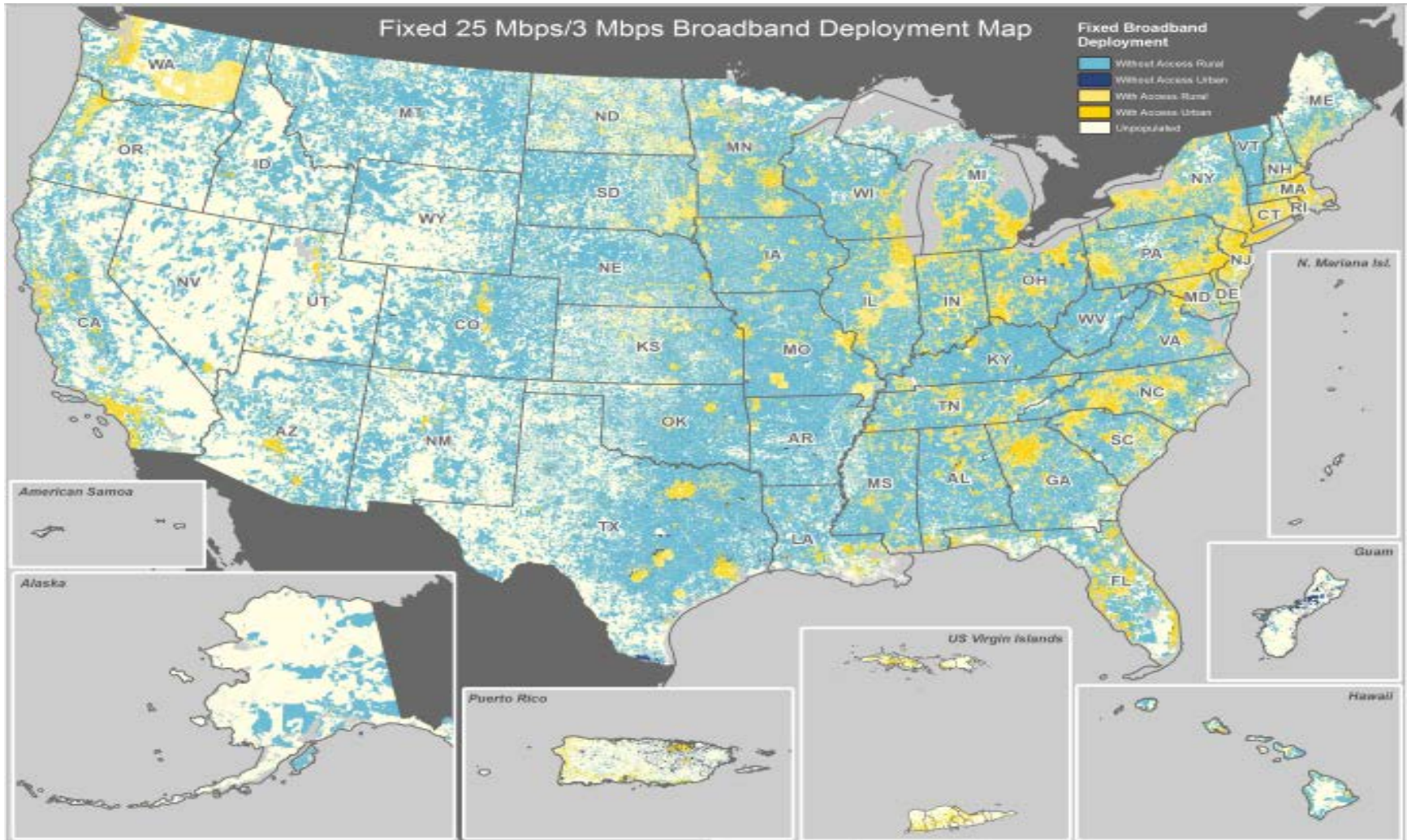
- Part 24 contains examples of Qualifying PWI Activities (12 CFR 24.6)
- Fiber optic projects generally consistent with economic development examples 12 CFR 24.6(b)
 - Investment that provides financing for a small business or farm located in a LMI area
 - Investment that provides financing for a small business or farm that produces or retains permanent jobs, the majority of which are held by LMI persons
 - Investment that develops and operates a commercial or industrial property located in a LMI area or that is occupied by a small business that produces jobs for LMI persons
 - Investment that develops and operates a business incubator located in a LMI area or that is occupied by a small business that produces jobs for LMI persons
 - Investment that forms and operates an agricultural cooperative located in a LMI area or that produces jobs for LMI persons
- Fiber optic investments are novel PWIs. Recommend that banks should seek prior approval before proceeding

Non-MSA Low- and Moderate-Income and Distressed and Underserved Census Tracts

Low- and Moderate-Income, Distressed and Underserved Census Tracts 2014



FCC 25 Mbps Broadband Deployment



Locating LMI, Distressed and Underserved Non-Metropolitan Middle Income Census Tracts

- **Federal Financial Institutions Examination Council:**
 - <http://www.ffiec.gov/>
 - FFIEC Online Census Data System:
<http://www.ffiec.gov/census/default.aspx>
 - Census Demographic Data by County
 - Geocoding/Mapping System:
<https://geomap.ffiec.gov/FFIECGeocMap/GeocodeMap1.aspx>
 - Census Demographic and other Data by Census Tract
 - CRA Evaluations: <http://www.ffiec.gov/craratings/default.aspx>
 - Distressed and Underserved Tracts:
<http://www.ffiec.gov/cra/distressed.htm>

Locating Regulated Financial Institutions by County and MSA

- **FDIC Summary of Deposits Website:** <https://www5.fdic.gov/sod/>
 - Deposit Market Share:
<https://www5.fdic.gov/sod/sodMarketBank.asp?barItem=2>
 - Individual Counties/MSAs
 - Aggregated Counties (up to 10)
 - Financial Institutions
 - Deposits within and without county or MSA
 - Branches: Deposits
 - CRA Evaluations
 - FFIEC Uniform Bank Performance Report (UBPR)
 - » Bank's Balance Sheet

Online OCC CRA and PWI Resources

- **OCC Community Affairs Website:**
<https://occ.gov/topics/community-affairs/index-community-affairs.html>
- **OCC Public Welfare Investment Website:**
<https://occ.gov/topics/community-affairs/resource-directories/public-welfare-investments/index-public-welfare-investments.html>
- **OCC Community Affairs Publications Website:**
<https://occ.gov/topics/community-affairs/publications/index-ca-publications.html>

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