

EDUCATION LOANS TO GET CRA RESPECT

New amendments set up some hurdles, but banks that get over them get credit

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Among recent developments in the compliance regulatory world that caught my attention are the amendments to the Community Reinvestment Act regulations of all four federal agencies (how much longer can we even say that?) that incorporate certain education loans into the realm of lending worthy of CRA consideration.

It's probably because I have a junior in high school who wants to go to the most expensive school he can find, and I'm beginning to panic over the cost of college education.

We've just returned from our first college visit and I'm starting to plan menus like hot dogs and bologna sandwiches in hopes we can afford at least the initial deposit.

But enough about me. Here's what you need to know.

Amendment add a plus to CRA compliance

The recent amendments provide that an institution's record of making low-cost education loans to low-income borrowers may be taken into account when assessing the institution's record of lending to its community. This is a significant development. The CRA amendments that went into effect Nov. 3, 2010.

Previously, education loans would have been treated like any other consumer loan for purposes of CRA evaluation. That means that now, if consumer lending makes up a substantial majority of an institution's business or if an institution chooses to have its consumer loans considered for CRA "credit" and the institution maintains required data on its consumer loans, consumer loans may be taken into consideration by the regulators for CRA evaluation. The subset of those loans that were educational purpose loans would be part of the evaluation of consumer loans as a group.

The scope of what can be considered education loans worthy of CRA consideration is very specifically defined by the regulations. The relevant amendment applies to "low-cost education loans." To design an education loan product that would receive favorable qualitative CRA consideration, you must meet all of the following criteria:

1. For "higher education" purpose only. Loans would have to be used to finance costs of post-high school education at an accredited institution. Accredited colleges, universities, and community colleges would be eligible. Also, vocational institutions that prepare students for gainful employment in a recognized profession would be included. Tuition at a private elementary or secondary school would not be eligible.
2. For loans "originated" by the institution only. Loans purchased by another lender would not be included.
3. For "education loans defined by the Truth in Lending Act's Section 140(a)(7)" only. CRA uses the Truth in Lending/Regulation Z definition of "private education loan," which means that open-end lines of credit and loans secured by real property or a dwelling are not eligible. Education loans that are made under a state or local loan program would be covered, but not education loans that are made, insured, or guaranteed by the federal government.

4. Priced at a "low-cost." The rates and fees for the loans must be no greater than the rates and fees for comparable education loans made directly by the U.S. Department of Education. A fixed-rate loan for a certain term would have to be priced comparable to a fixed-rate loan of the same or comparable term that the U.S. Department of Education offers. Ditto for a variable-rate loan. An institution's direct competition on pricing is the federal government and not other institutions in its marketplace.

5. To "low-income borrowers." Education loans would only qualify for CRA consideration if they are made to borrowers who have an individual income that is less than 50% of the median income for the area. While most of the rest of CRA focuses on low-to-moderate income borrowers (which is 80% or less than the median income of the area), this type of loan applies only to low-income borrowers.

6. To borrowers located "particularly in the institution's assessment area." The agencies will first consider low-cost education loans originated by an institution that are located within the institution's assessment area. If the low-cost education needs of the assessment area are adequately met, then the agencies would also look at the loans made outside of the assessment area. But, the primary focus, as with all CRA loans, is the assessment area.

Final thoughts, and a question

If your bank is trying to create an education loan product or program that meets all of these very specific criteria isn't feasible, an institution can still have its education loans considered within the larger category of "consumer loans" as before.

I'm wondering whether there's enough incentive here to encourage banks and savings associations to make more low-cost education loans. What do you think?

About Nancy Derr-Castiglione

"Lucy and Nancy's Common Sense Compliance" is blogged by both Lucy Griffin and Nancy Derr-Castiglione, both ABA Banking Journal contributing editors on compliance.

Nancy, a Certified Regulatory Compliance Manager, is owner of D-C Compliance Services, an independent regulatory compliance consulting services business that has provided expertise in compliance training, monitoring, risk assessment, and policies and procedures to financial institutions since 2002.

Previously, Nancy held compliance positions with Bank One Corporation and with United Banks of Colorado.

In addition to serving as a Contributing Editor of ABA Banking Journal, Nancy has served on the ABA Compliance Executive Committee; National and Graduate Compliance Schools board; conference planning committees, and the Editorial Advisory Board for the ABA Bank Compliance magazine. She can be reached at nancycastiglione@comcast.net

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