reporting. Many commenters representing the industry stated that data collection may place a greater relative burden on smaller institutions than larger institutions due to limitations in staff and financial resources. After considering the comments, the agencies have decided not to change materially the smaller institution performance standards. Examinations of small banks and thrifts will be streamlined and will not require the periodic reporting of new data. Examinations will be meaningful and will not be implemented as de facto exemptions.

Performance criteria. The 1994 proposal provided that to determine whether a small institution's CRA record is satisfactory, the agencies would consider the institution's loan-todeposit ratio, adjusted for seasonal variation and, as appropriate, other lending-related activities, such as loan originations for sale to the secondary markets, community development loans or qualified investments. This provision of the 1994 proposal responded to concerns following the 1993 proposal that institutions that package and sell their loans would be disadvantaged when compared to portfolio lenders by a strict loan-to-deposit ratio test. This provision of the 1994 proposal has been retained in the final rule. Evaluations will also take into account the institution's size, financial condition, and the credit needs of its assessment area.

The final rule also requires consideration of the proportion of the institution's total lending made to borrowers in its assessment area. The agencies will take into account local lending and investment opportunities in assessing this criterion.

In addition, the agencies will evaluate the distribution of loans and lendingrelated activities among individuals of different income levels and businesses and farms of different sizes. Where appropriate, the agencies will also evaluate the geographic distribution of loans in the institution's assessment area, including low- and moderateincome geographies. Contrary to the concerns expressed by some commenters, however, a small institution is not expected to lend evenly throughout its service area; rather, loan distribution will be evaluated within the context of an institution's capacity to lend, local economic conditions, and lending opportunities in the assessment area.

The agencies also will evaluate whether an institution has taken appropriate action, as warranted, in response to written complaints about

the institution's performance in helping to meet the credit needs of its assessment area(s). Some commenters suggested that complaints resolved satisfactorily for the complainant not be considered in the evaluation. The agencies will consider those complaints, but their satisfactory resolution will be a favorable element in an evaluation. Other commenters expressed concern that the agencies might not adequately consider bona fide complaints from community members. However, the agencies intend to consider all CRA complaints in the course of an examination. Therefore, this criterion is retained in the final rule as proposed.

Elements of outstanding performance. Some commenters requested a clarification of the circumstances under which a small institution could earn an "outstanding" rating. Others urged that some flexibility be provided to consider a range of activities that enhance credit availability and promote community development. Under the final rule, in addition to determining whether an institution has exceeded some or all of the standards for a satisfactory rating, the agencies will consider a small institution's investment and service performance based on the broad range of investment and service activities discussed in the rule for other institutions.

Strategic Plan

The provisions of the strategic plan in the 1994 proposal have been adopted largely as proposed, with some changes.

The 1994 proposal provided that, as an alternative to being rated under the lending, service, and investment tests, or the small institution performance standards, a bank or thrift could submit to its supervisory agency for approval a strategic plan developed with community input detailing how the institution proposed to meet its CRA obligation. The 1994 proposal made clear that an institution would not be assessed under a plan unless the plan had been approved by its supervisory agency. To facilitate examinations of institutions with approved plans, the final rule clarifies that an institution is only evaluated under a plan if the plan is in effect and if the institution has operated under an approved plan (although not necessarily the particular plan currently in effect) for at least one year. Affiliates may prepare joint plans. The final rule permits activities to be allocated among affiliated institutions at the institutions' option, provided that the same activities are not considered for more than one institution. This change was made in response to comments requesting greater flexibility

and increased opportunities for affiliated institutions sharing the same assessment area(s) to work together to help meet the credit needs of their communities and, in particular, in lowand moderate-income areas.

Public participation. The final rule retains the public participation provisions in the 1994 proposal. The final rule requires an institution informally to seek suggestions from the public while developing a plan. Once the institution has developed a plan, it must publish notice of the plan and solicit written public comment for at least 30 days. In order to avoid unduly lengthening the plan approval process, the final rule does not extend the minimum comment period. After the comment period, the institution shall submit the plan to its regulator, along with any written comments received. If the plan was revised in light of the comments received, the institution shall also submit the plan in the form released for public comment. The agencies have added in the final rule a requirement that an institution submit with its plan a description of its informal efforts to seek suggestions from members of the public. As under the 1994 proposal, the final rule states that a plan will be approved if the agency fails to act on it within 60 days after submission, unless the agency extends the review period for good cause.

Because of the importance of constructive community involvement in the plan process, the agencies have not changed in the final rule the amount of public participation required. Requiring an institution to seek informal suggestions in formulating a plan, and then to solicit formal comment before submitting a plan to the agency, encourages consultation between an institution and its community, including local government, community leaders, the public and tribal governments. There is no need for a further comment period after the institution submits its proposed plan to the agency because such a comment period could undermine the direct communication and consultation between an institution and its community that is most beneficial to the process.

Several comments appeared to misunderstand why the strategic plan provides for comment from the public. The strategic plan option provides institutions an opportunity to tailor their CRA objectives to the needs of their community and their capacity and expertise. Several industry comments were concerned that under the strategic plan option, community organizations would play an inappropriate role in an