The agencies have carefully considered the effects of the final rule on small entities and the alternatives available to mitigate its potential burdens. The final rule provides separate, less burdensome treatment for small institutions, which are defined as institutions with total assets of \$250 million or less that are either independent or are affiliates of a holding company with banking and thrift assets of less than \$1 billion. The rule contains a specific small institution performance evaluation that relies on simplified criteria, to account for the operational differences between large and small institutions. Small institutions are also not subject to the data collection and reporting provisions in the rule for large institutions.

The agencies believe that the rule has minimized the burden on small institutions, while still enabling the agencies to fulfill their statutory mandate to examine the CRA record of these institutions. Although exempting small institutions from evaluation under the CRA would eliminate any possible burden imposed by the final rule, the CRA does not provide an exemption for small institutions.

Some small institutions would continue to be subject to the same potential burdens imposed on large institutions if they were affiliates in a holding company with banking and thrift assets of more than \$1 billion. The agencies have rejected the alternative of eliminating the holding company limitation altogether in order to prevent holding companies from manipulating the asset size of their institutions to qualify for the small institution treatment.

However, by raising the holding company asset limit from \$250 million in the 1994 proposal to \$1 billion in the final rule, the agencies have sought to mitigate any unfairness and unnecessary burden resulting from the holding company limitation. The agencies selected a higher asset level for the holding company limitation in recognition that smaller holding companies may be unable to provide the necessary support for the CRA activities of their small institution subsidiaries. The agencies anticipate that larger holding companies under the final rule would be capable of supporting the CRA activities of their subsidiary small institutions.

Executive Order 12866

OCC and OTS: The OCC and OTS have determined that this document is a significant regulatory action because of the legal and policy issues it raises. Because of the significance of the rule,

the OCC and OTS will review its effectiveness in achieving the goals of the CRA prior to and in preparation for the full CRA regulatory review in the year 2002, discussed earlier.

Unfunded Mandates Reform Act of 1995

OCC and OTS: Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, provides that before promulgating certain rulemakings, covered agencies must prepare a written statement containing a cost/benefit analysis. Under section 205, before promulgating any rule for which a written statement is required under section 202, covered agencies must identify and consider a reasonable number of regulatory alternatives, and from those alternatives, select the least costly, most costeffective, or least burdensome one that achieves the objective of the rulemaking

In promulgating this rulemaking, the Federal financial supervisory agencies considered a wide range of alternatives described in notices of proposed rulemaking published in 1993 and 1994. In addition to the comments that the agencies received in response to the notices of proposed rulemaking, the agencies conducted a series of seven public hearings across the country in 1993, at which hundreds of witnesses commented and others provided written statements. Although the OCC and OTS have determined that they are not required to prepare a written statement under section 202 or to make a finding under section 205, they conclude that, on balance, this final rule provides the most cost-effective and least burdensome alternative to achieve the objectives of the rule, consistent with statutory requirements.

List of Subjects

12 CFR Part 25

Community development, Credit, Investments, National banks, Reporting and recordkeeping requirements.

12 CFR Part 228

Banks, Banking, Community development, Credit, Federal Reserve System, Investments, Reporting and recordkeeping requirements.

12 CFR Part 345

Banks, Banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

12 CFR Part 563e

Community development, Credit, Investments, Reporting and

recordkeeping requirements, Savings associations.

Authority and Issuance

Office of the Comptroller of the Currency

12 CFR Chapter I

For the reasons outlined in the joint preamble, the Office of the Comptroller of the Currency amends 12 CFR chapter I as set forth below:

PART 25—COMMUNITY REINVESTMENT ACT REGULATIONS

1. The authority citation for part 25 is revised to read as follows:

Authority: 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1814, 1816, 1828(c), and 2901 through 2907.

2. Part 25 is amended by adding Subparts A through D and Appendices A and B to read as follows:

Subpart A-General

Sec.

25.11 Authority, purposes, and scope.

25.12 Definitions.

Subpart B—Standards for Assessing Performance

25.21 Performance tests, standards, and ratings, in general.

25.22 Lending test.

25.23 Investment test.

25.24 Service test.

25.25 Community development test for wholesale or limited purpose banks.

25.26 Small bank performance standards.

25.27 Strategic plan.

25.28 Assigned ratings.

25.29 Effect of CRA performance on applications.

Subpart C—Records, Reporting, and Disclosure Requirements

25.41 Assessment area delineation.

25.42 Data collection, reporting, and disclosure.

25.43 Content and availability of public file.

25.44 Public notice by banks.

25.45 Publication of planned examination schedule.

Subpart D—Transition Rules

25.51 Transition rules.

Appendix A to Part 25—Ratings
Appendix B to Part 25—CRA Notice

Subpart A—General

§ 25.11 Authority, purposes, and scope.

(a) Authority and OMB control number—(1) Authority. The authority for this part is 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1814, 1816, 1828(c), and 2901 through 2907.

(2) *OMB control number*. The information collection requirements contained in this part were approved by the Office of Management and Budget