



**NEW YORK STATE  
DEPARTMENT OF FINANCIAL SERVICES  
CONSUMER PROTECTION AND FINANCIAL ENFORCEMENT  
DIVISION**

One State Street  
New York, NY 10004

**PUBLIC SUMMARY**

**COMMUNITY REINVESTMENT ACT  
PERFORMANCE EVALUATION**

**Date of Evaluation:** December 31, 2019

**Institution:** Empire State Bank  
68 North Plank Road  
Newburgh, NY 12550

**Note:** This evaluation is not an assessment of the financial condition of this institution. The rating assigned does not represent an analysis, conclusion or opinion of the New York State Department of Financial Services concerning the safety and soundness of this financial institution.

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## **GENERAL INFORMATION**

This document is an evaluation of the Community Reinvestment Act (“CRA”) performance of Empire State Bank (“ESB” or the “Bank”) prepared by the New York State Department of Financial Services (“DFS” or the “Department”). This evaluation represents the Department’s current assessment and rating of the institution’s CRA performance based on an evaluation conducted as of December 31, 2019.

Section 28-b of the New York Banking Law, as amended, requires that when evaluating certain applications, the Superintendent of Financial Services shall assess a banking institution’s record of helping to meet the credit needs of its entire community, including low- and moderate-income (“LMI”) areas, consistent with safe and sound operations.

Part 76 of the General Regulations of the Superintendent (“GRS”) implements Section 28-b and further requires that the Department assess the CRA performance records of regulated financial institutions. Part 76 establishes the framework and criteria by which the Department will evaluate institutions’ performance. Section 76.5 further provides that the Department will prepare a written report summarizing the results of such assessment and will assign to each institution a numerical CRA rating based on a 1 to 4 scoring system. The numerical scores represent an assessment of CRA performance as follows:

- (1) Outstanding record of meeting community credit needs;
- (2) Satisfactory record of meeting community credit needs;
- (3) Needs to improve in meeting community credit needs; and
- (4) Substantial noncompliance in meeting community credit needs.

Section 76.5 further requires that the CRA rating and the written summary (“Evaluation”) be made available to the public. Evaluations of banking institutions are primarily based on a review of performance tests and standards described in Section 76.7 and detailed in Sections 76.8 through 76.13. The tests and standards incorporate the 12 assessment factors contained in Section 28-b of the New York Banking Law.

For an explanation of technical terms used in this report, please consult the **GLOSSARY** at the back of this document.

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## **OVERVIEW OF INSTITUTION'S PERFORMANCE**

DFS evaluated ESB according to the intermediate small bank performance criteria pursuant to Sections 76.7 and 76.12 of the GRS. The assessment period included calendar years 2016 through 2019. ESB is rated "2," indicating a "**Satisfactory**" record of helping to meet community credit needs.

The rating is based on the following factors:

**Lending Test:** Satisfactory

**Loan-to-Deposit Ratio and Other Lending-Related Activities:** Outstanding

ESB's average loan-to-deposit ("LTD") ratio was excellent considering its size, business strategy, financial condition and peer group activity.

ESB's average LTD ratio of 108.1% for the evaluation period exceeded the peer group's average LTD ratio of 80.5%.

**Assessment Area Concentration:** Satisfactory

During the evaluation period, ESB originated 72.3% by number and 75.5% by dollar value of its HMDA-reportable and small business loans within the assessment area. This majority of lending inside its assessment area reflects a reasonable concentration of lending.

**Distribution by Borrower Characteristics:** Outstanding

ESB's lending demonstrated an excellent distribution of loans among businesses of different revenue sizes. The rating in this criterion is solely based on the ESB's small business lending performance during the evaluation period as the Bank did not originate any personal residential loans.

**Geographic Distribution of Loans:** Satisfactory

ESB's origination of loans in census tracts of varying income levels demonstrated a reasonable distribution of lending.

**Action Taken in Response to Written Complaints With Respect to CRA:** Not Rated

Neither DFS nor ESB received any written complaints during the evaluation period regarding ESB's CRA performance.

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**Community Development Test:** Satisfactory

ESB's community development performance demonstrated reasonable responsiveness to the community development needs of its assessment area through community development loans, investments and services, considering ESB's capacity, and the need for and availability of opportunities for community development in its assessment area.

**Community Development Lending:** Satisfactory

During the evaluation period, ESB originated \$12.7 million in new community development loans. This demonstrated a reasonable level of community development lending over the course of the evaluation period.

**Community Development Investments:** Satisfactory

During the evaluation period, ESB made \$2 million in new community development investments. In addition, ESB made \$61,246 in community development grants. This demonstrated a reasonable level of community development investments over the course of the evaluation period.

**Community Development Services:** Outstanding

ESB demonstrated an excellent level of community development services over the course of the evaluation period.

**Responsiveness to Community Development Needs:**

ESB demonstrated a reasonable level of responsiveness to credit and community development needs during the evaluation period.

*This evaluation was conducted based on a review of the 12 assessment factors set forth in Section 28-b of the New York Banking Law and GRS Part 76.*

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## **PERFORMANCE CONTEXT**

### **Institution Profile**

Established in 2004, ESB is a New York State-chartered commercial bank headquartered in Newburgh, New York. The Bank is wholly owned by ES Bancshares, Inc., a publicly traded holding company.

ESB offers business loans including Small Business Administration (“SBA”) loans, commercial term loans, lines of credit, commercial letters of credit and commercial real estate loans. ESB also offers a full line of deposit products including personal and business checking and savings accounts, certificates of deposit, and individual retirement accounts. Alternative banking services include direct deposit, night depository, online banking, debit cards, and remote deposit capture. ESB has not made any consumer or owner-occupied residential mortgage loans since 2012.

In its Consolidated Report of Condition (the “Call Report”) as of December 31, 2019 filed with the Federal Deposit Insurance Corporation (“FDIC”), ESB reported total assets of \$420.9 million, of which \$365.7 million were net loans and lease financing receivables. It also reported total deposits of \$332 million, resulting in a loan-to-deposit ratio of 110.1%. According to the latest available comparative deposit data as of June 30, 2019, ESB had a market share of 0.41%, or \$323 million in a market of \$79 billion, ranking it 25th among 60 deposit-taking institutions in the assessment area.

The following is a summary of the Bank’s loan portfolio, based on Schedule RC-C of the Bank’s December 31, 2016, 2017, 2018 and 2019 Call Reports.

<b>TOTAL GROSS LOANS OUTSTANDING</b>								
Loan Type	12/31/2016		12/31/2017		12/31/2018		12/31/2019	
	\$000's	%	\$000's	%	\$000's	%	\$000's	%
1-4 Family Residential Mortgage Loans	47,525	22.8	67,084	26.1	136,094	38.5	169,991	46.0
Commercial & Industrial Loans	35,198	16.9	26,023	10.1	23,723	6.7	19,904	5.4
Commercial Mortgage Loans	96,880	46.4	130,768	50.9	154,360	43.7	144,523	39.1
Multifamily Mortgages	23,870	11.4	29,161	11.4	37,658	10.7	33,594	9.1
Consumer Loans	260	0.1	210	0.1	199	0.1	13	0.0
Agricultural Loans	3,294	1.6	2,397	0.9	1,148	0.3	972	0.3
Construction Loans	1,423	0.7	965	0.4	0	0.0	97	0.0
Other Loans	197	0.1	211	0.1	180	0.1	100	0.0
<b>Total Gross Loans</b>	<b>208,647</b>	<b>100.0</b>	<b>256,819</b>	<b>100.0</b>	<b>353,362</b>	<b>100.0</b>	<b>369,194</b>	<b>100.0</b>

As illustrated in the above table, ESB is a primarily a commercial lender, with 44.5% of its loan portfolio in commercial mortgage loans and commercial and industrial loans.. In addition, the Bank’s one-to-four family residential mortgage loans, representing 46% of the Bank’s loan portfolio were made exclusively for investment properties.

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ESB operates five banking offices, of which two are located in Brooklyn (Kings County), two are located in Staten Island (Richmond County) and one is located in Orange County. The Bank also operates a loan production office in Staten Island, NY (Richmond County). Supplementing the banking offices is an automated teller machine (“ATM”) network consisting of five machines, one at each branch location and one cash-only ATM located at the loan production office in Staten Island.

*Examiners did not find evidence of financial or legal impediments that had an adverse impact on ESB’s ability to meet the credit needs of its community.*

### **Assessment Area**

The Bank’s assessment area is comprised of Kings, Orange, and Richmond Counties.

There are 950 census tracts in the assessment area, of which 108 are low-income, 282 are moderate-income, 295 are middle-income, 248 are upper-income, and 17 are tracts with no income indicated.

<b>Assessment Area Census Tracts by Income Level</b>							
County	N/A	Low	Mod	Middle	Upper	Total	LMI %
Kings	14	95	260	230	162	761	46.6
Orange	0	9	14	37	19	79	29.1
Richmond	3	4	8	28	67	110	10.9
Total	17	108	282	295	248	950	41.1

ESB made changes to its assessment area during the evaluation period.

Previously, in 2016, ESB’s assessment area was comprised of the entirety of Richmond County and parts of Ulster, Orange, and Kings Counties. In 2016, ESB’s assessment area was comprised of 327 census tracts, and LMI census tracts represented 42.5% of all tracts in the Bank’s assessment area.

In 2017, ESB made the following changes in its assessment area:

- The Bank sold its New Paltz branch and removed partial Ulster County from its assessment area; and
- ESB included all of Orange and Kings Counties in its assessment area in recognition of increased lending activity in both counties.

After these changes, LMI areas comprised 41.1% of all census tracts in the assessment area.

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## **Demographic & Economic Data**

The assessment area had a population of 3,443,124 during the evaluation period. Approximately 12.2% of the population was over the age of 65 and 21% was under the age of 16.

Of the 797,434 families in the assessment area, 31.1% were low-income, 15.8% were moderate-income, 16.7% were middle-income and 36.3% were upper-income. There were 1.2 million households in the assessment area, of which 19.6% had income below the poverty level and 4.1% were on public assistance.

The weighted average median family income in the assessment area was \$67,739.

There were 1.3 million housing units within the assessment area, of which 57.6% were one-to-four family units and 42% were multifamily units. A majority (56.2%) of the area's housing units were rental units, while 35.4% were owner-occupied.

Of the total 749,951 rental units, 56.7% were in LMI census tracts while 43.3% were in middle- and upper-income census tracts. Average monthly gross rent was \$1,233.

Of the 472,901 owner-occupied housing units, 23.2% were in LMI census tracts while 76.8% were in middle- and upper-income census tracts. The median age of the housing stock was 67 years, and the median home value in the assessment area was \$520,877.

There were 229,370 non-farm businesses in the assessment area. Of these, 91.4% were businesses with reported revenues of less than or equal to \$1 million, 3.6% reported revenues of more than \$1 million and 5% did not report their revenues. Of all the businesses in the assessment area, 98.1% were businesses with less than 50 employees while 94.6% operated from a single location. The largest industries in the area were services (40.5%), retail trade (14.9%) and finance, insurance and real estate (6.7%); 20.6% of businesses in the assessment area were not classified.

According to the New York State Department of Labor, the average annual unemployment rates for New York State and the counties of Kings, Orange and Richmond declined during the evaluation period. Orange County consistently had the lowest average annual unemployment rate, while Kings County consistently had the highest unemployment rate.



<b>Assessment Area Unemployment Rate</b>				
	Statewide	Kings	Orange	Richmond
2019	4.0%	4.1%	3.8%	3.9%
2018	4.1%	4.3%	3.9%	4.2%
2017	4.7%	4.7%	4.5%	4.7%
2016	4.9%	5.3%	4.3%	5.2%
2015	5.3%	5.9%	4.7%	5.8%
Average of Years Above	4.6%	4.9%	4.2%	4.8%

### **Community Information**

DFS conducted community contact interviews with two organizations within the Bank's assessment area.

The first interview was with a nonprofit organization that promotes regional, balanced, and sustainable growth and vitality for the Hudson Valley. The organization's President and CEO indicated that while financial institutions were generally helpful, more support for affordable housing for the communities, homeownership for LMI people, and small business loans were still needed. In addition, the contact expressed the need for financial literacy workshops, job training, and placement pre-programs for LMI individuals.

The second interview was with an organization that provides business services tailored to the needs of women in underserved communities in the five boroughs of New York City. The organization provides various resources including training, financial literacy, and loan programs. The organization's representative stated that while financial institutions participate in workshops or seminars, they often have not been able to make loans necessary for borrowers who lack experience and revenue. The representative expressed the need for flexible lending programs, such as micro loans, financial literacy and business plan writing workshops.

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## **PERFORMANCE STANDARDS AND ASSESSMENT FACTORS**

DFS evaluated ESB under the intermediate small banking institution performance standards in accordance with Sections 76.7 and 76.12 of the GRS, which consist of the lending test and the community development test.

*The lending test includes:*

- 1. Loan-to-deposit ratio and other lending-related activities;*
- 2. Assessment area concentration;*
- 3. Distribution of loans by borrower characteristics;*
- 4. Geographic distribution of loans; and*
- 5. Action taken in response to written complaints regarding CRA.*

*The community development test includes:*

- 1. Community development lending;*
- 2. Community development investments;*
- 3. Community development services; and*
- 4. Responsiveness to community development needs.*

*DFS also considered the following factors in assessing the bank's record of performance:*

- 1. The extent of participation by the board of directors or board of trustees in formulating CRA policies and reviewing CRA performance;*
- 2. Evidence of any practices intended to discourage credit applications;*
- 3. Evidence of prohibited discriminatory or other illegal credit practices;*
- 4. Record of opening and closing offices and providing services at offices; and*
- 5. Process factors, such as activities to ascertain credit needs and the extent of marketing and special credit related programs.*

DFS derived statistics employed in this evaluation from various sources. ESB submitted bank-specific information both as part of the examination process and on its Call Report submitted to the FDIC. DFS obtained aggregate lending data from the Federal Financial Institutions Examination Council ("FFIEC") and deposit data from the FDIC. DFS obtained LTD ratios from information shown in the Bank's Uniform Bank Performance Report, compiled by the FFIEC from Call Report data.

DFS derived the demographic data referred to in this report from the 2010 U.S. Census and the FFIEC. DFS based business data on Dun & Bradstreet reports, which Dun & Bradstreet updates annually. DFS obtained unemployment data from the New York State Department of Labor.

The evaluation period included calendar years 2016, 2017, 2018 and 2019 for both lending activities and the community development activities.

Examiners considered ESB's small business and HMDA-reportable loans in evaluating factors (2), (3) and (4) of the lending test noted above.

As ESB did not make any small farm loans, DFS based all analyses on small business lending only.

HMDA-reportable loan data evaluated in this performance evaluation represented actual originations. Small business loan results were based on a random sample of 113 loans.

Because ESB is not required to report small business loan data, ESB's small business lending is not included in the aggregate data. The aggregate data are shown only for comparative purposes.

At its **prior** Performance Evaluation as of December 31, 2013, DFS assigned ESB a rating of "2," reflecting a "Satisfactory" record of helping to meet the credit needs of ESB's community.

**Current CRA Rating: Satisfactory**

**Lending Test:** Satisfactory

ESB's small business and HMDA-reportable activities were reasonable in light of ESB's size, business strategy, and financial condition, as well as aggregate and peer group activity and the demographic characteristics and credit needs of the assessment area.

**Loan-to-Deposit ("LTD") Ratio and Other Lending-Related Activities:** Outstanding

ESB's average LTD ratio was excellent considering its size, business strategy, financial condition and peer group activity.

ESB's average LTD ratio of 108.1% for the evaluation period exceeded the peer group's average ratio of 80.5%. The Bank's ratios ranged from a low of 92.7% to a high of 119.7%, while the peer group's average ranged from a low of 76.5% to a high of 83.2%. The Bank's average LTD ratio during this evaluation period was also higher than the previous evaluation LTD ratio of 83.9%.

The table below shows ESB's LTD ratios in comparison with the peer group's ratios for the 16 quarters of this evaluation period.

<b>Loan-to-Deposit Ratios</b>																	
	2016 Q1	2016 Q2	2016 Q3	2016 Q4	2017 Q1	2017 Q2	2017 Q3	2017 Q4	2018 Q1	2018 Q2	2018 Q3	2018 Q4	2019 Q1	2019 Q2	2019 Q3	2019 Q4	Avg.
Bank	100.8	98.1	92.7	99.2	102.2	107.8	114.0	116.2	119.7	108.8	108.9	116.9	111.4	111.5	111.4	110.1	108.1
Peer	76.5	78.0	78.2	78.5	77.9	79.6	80.0	80.1	79.7	82.8	83.2	83.1	82.2	83.2	82.9	82.4	80.5

**Assessment Area Concentration:** Satisfactory

During the evaluation period, ESB originated 72.3% by number and 75.5% by dollar value

of its total HMDA-reportable and small business loans within the assessment area. This majority of lending inside of its assessment area is a reasonable concentration of lending.

HMDA-Reportable Loans:

During the evaluation period, ESB originated 74.6% by number and 75% by dollar value of its HMDA-reportable loans within the assessment area. This majority of lending inside of ESB’s assessment area reflects a reasonable concentration of lending.

Small Business Loans:

During the evaluation period, ESB originated 66.4% by number and 77.8% by dollar value of its small business loans within the assessment area. This majority of lending inside of ESB’s assessment area reflects a reasonable concentration of lending.

The following table shows the percentages of ESB’s HMDA-reportable and small business loans originated inside and outside of the assessment area.

Distribution of Loans Inside and Outside of the Assessment Area										
Loan Type	Number of Loans					Loans in Dollars (in thousands)				
	Inside		Outside		Total	Inside		Outside		Total
	#	%	#	%		\$	%	\$	%	
HMDA-Reportable										
2016	19	76.0%	6	24.0%	25	11,875	81.5%	2,698	18.5%	14,573
2017	45	83.3%	9	16.7%	54	25,551	82.9%	5,271	17.1%	30,822
2018	98	74.8%	33	25.2%	131	70,709	74.6%	24,111	25.4%	94,820
2019	52	67.5%	25	32.5%	77	35,559	69.2%	15,854	30.8%	51,413
Subtotal	214	74.6%	73	25.4%	287	143,694	75.0%	47,934	25.0%	191,628
Small Business*										
2016	13	52.0%	12	48.0%	25	4,733	64.6%	2,589	35.4%	7,322
2017	22	71.0%	9	29.0%	31	10,204	82.2%	2,210	17.8%	12,414
2018	17	60.7%	11	39.3%	28	8,257	72.7%	3,105	27.3%	11,362
2019	23	79.3%	6	20.7%	29	13,293	84.2%	2,500	15.8%	15,793
Subtotal	75	66.4%	38	33.6%	113	36,487	77.8%	10,404	22.2%	46,891
Grand Total	289	72.3%	111	27.8%	400	180,181	75.5%	58,338	24.5%	238,519

\* For small business lending, DFS analyzed a sample of 25 of the 85 loans made in 2016; 31 of the 88 loans made in 2017; 28 of the 60 loans made in 2018; and 29 of the 36 loans made in 2019. DFS based its analysis of HMDA-reportable lending on actual loans.

Distribution by Borrower Characteristics: Outstanding

ESB’s lending demonstrated an excellent distribution of loans among businesses of different revenue sizes. The rating for this criterion is solely based on ESB’s small business lending performance during the evaluation period because the Bank did not originate any personal residential loans.

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HMDA-Reportable Loans:

DFS did not evaluate HMDA-reportable loans for this criterion because the Bank was a commercial lender and did not originate any personal residential loans during the evaluation period. All one-to-four family residential loans originated by ESB were secured by non-owner-occupied investment properties.

Small Business Loans:

ESB's small business lending demonstrated an excellent distribution of loans among businesses of different revenue sizes.

ESB's average rates of lending to business with revenues of \$1 million or less were 85.3% by number and 86.4% by dollar value of loans, well above the aggregate's rates of 48.4% and 34.3%, respectively.

The following table provides a summary of the distribution of ESB's small business loans by the revenue size of the business.

Distribution of Small Business Lending by Revenue Size of Business									
2016									
Rev. Size	Bank				Aggregate				Bus.Dem.
	#	%	\$000's	%	#	%	\$000's	%	%
Rev. <= \$1MM	11	84.6%	4,053	85.6%	17,364	50.8%	277,822	35.1%	90.3%
Rev. > \$1MM	2	15.4%	680	14.4%					4.4%
Rev. Unknown		0.0%		0.0%					5.3%
<b>Total</b>	<b>13</b>		<b>4,733</b>		<b>34,205</b>		<b>791,010</b>		
2017									
Rev. Size	Bank				Aggregate				Bus.Dem.
	#	%	\$000's	%	#	%	\$000's	%	%
Rev. <= \$1MM	17	77.3%	8,389	82.2%	49,182	54.2%	864,852	38.4%	90.0%
Rev. > \$1MM	3	13.6%	620	6.1%					4.3%
Rev. Unknown	2	9.1%	1,195	11.7%					5.7%
<b>Total</b>	<b>22</b>		<b>10,204</b>		<b>90,702</b>		<b>2,255,092</b>		
2018									
Rev. Size	Bank				Aggregate				Bus.Dem.
	#	%	\$000's	%	#	%	\$000's	%	%
Rev. <= \$1MM	15	88.2%	7,441	90.1%	41,326	42.5%	787,023	32.2%	90.0%
Rev. > \$1MM	2	11.8%	816	9.9%					4.3%
Rev. Unknown		0.0%		0.0%					5.7%
<b>Total</b>	<b>17</b>		<b>8,257</b>		<b>97,299</b>		<b>2,441,099</b>		
2019									
Rev. Size	Bank				Aggregate				Bus.Dem.
	#	%	\$000's	%	#	%	\$000's	%	%
Rev. <= \$1MM	21	91.3%	11,657	87.7%	52,398	48.2%	881,975	32.5%	91.4%
Rev. > \$1MM	2	8.7%	1,636	12.3%					3.6%
Rev. Unknown		0.0%		0.0%					5.0%
<b>Total</b>	<b>23</b>		<b>13,293</b>		<b>108,659</b>		<b>2,714,099</b>		
GRAND TOTAL									
Rev. Size	Bank				Aggregate				Bus.Dem.
	#	%	\$000's	%	#	%	\$000's	%	%
Rev. <= \$1MM	64	85.3%	31,540	86.4%	160,270	48.4%	2,811,672	34.3%	
Rev. > \$1MM	9	12.0%	3,752	10.3%	-				
Rev. Unknown	2	2.7%	1,195	3.3%	0				
<b>Total</b>	<b>75</b>		<b>36,487</b>						

### Geographic Distribution of Loans: Satisfactory

ESB's origination of loans in census tracts of varying income levels demonstrated a reasonable distribution of lending.

### HMDA-Reportable Loans:

The distribution of ESB's HMDA-reportable loans among census tracts of different income levels was excellent.

ESB's average rates of lending in LMI census tracts for the evaluation period were 52.3% by number and 54.9% by dollar value of loans. ESB's rates of lending by both number and dollar value outperformed the aggregate's average rates of 25.5% by number and

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34.1% by dollar value. In addition, ESB's average rates of lending by both number and dollar value of loans in LMI census tracts exceeded the percentage of owner-occupied housing units (housing demographics) in each year of the evaluation period.

The following table provides a summary of the distribution of ESB's HMDA-reportable loans by the income level of the geography where the property was located.

<b>Distribution of HMDA-Reportable Lending by Geographic Income of the Census Tract</b>									
<b>2016</b>									
<b>Geographic Income</b>	<b>Bank</b>				<b>Aggregate</b>				<b>OO HUs</b>
	<b>#</b>	<b>%</b>	<b>\$000's</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>\$000's</b>	<b>%</b>	<b>%</b>
Low	3	15.8%	2,305	19.4%	460	4.0%	258,491	5.5%	4.2%
Moderate	8	42.1%	5,023	42.3%	1,988	17.1%	1,066,303	22.7%	19.1%
LMI	11	57.9%	7,328	61.7%	2,448	21.1%	1,324,794	28.2%	23.3%
Middle	7	36.8%	3,783	31.9%	3,537	30.4%	1,308,442	27.9%	30.0%
Upper	1	5.3%	764	6.4%	5,632	48.5%	2,054,461	43.8%	46.8%
Unknown	0	0.0%	0	0.0%	2	0.0%	3,096	0.1%	
<b>Total</b>	<b>19</b>		<b>11,875</b>		<b>11,619</b>		<b>4,690,793</b>		
<b>2017</b>									
<b>Geographic Income</b>	<b>Bank</b>				<b>Aggregate</b>				<b>OO HUs</b>
	<b>#</b>	<b>%</b>	<b>\$000's</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>\$000's</b>	<b>%</b>	<b>%</b>
Low	1	2.2%	850	3.3%	1,799	6.4%	1,320,708	8.8%	4.6%
Moderate	26	57.8%	16,500	64.6%	5,319	18.9%	3,249,714	21.7%	20.5%
LMI	27	60.0%	17,350	67.9%	7,118	25.3%	4,570,422	30.6%	25.1%
Middle	10	22.2%	4,159	16.3%	8,133	28.9%	3,627,786	24.3%	32.2%
Upper	8	17.8%	4,042	15.8%	12,923	45.8%	6,736,136	45.1%	42.7%
Unknown	0	0.0%	0	0.0%	15	0.1%	12,205	0.1%	
<b>Total</b>	<b>45</b>		<b>25,551</b>		<b>28,189</b>		<b>14,946,549</b>		
<b>2018</b>									
<b>Geographic Income</b>	<b>Bank</b>				<b>Aggregate</b>				<b>OO HUs</b>
	<b>#</b>	<b>%</b>	<b>\$000's</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>\$000's</b>	<b>%</b>	<b>%</b>
Low	10	10.2%	8,300	11.7%	2,571	7.4%	2,209,995	10.3%	4.6%
Moderate	40	40.8%	28,511	40.3%	6,921	19.8%	6,199,265	28.9%	20.5%
LMI	50	51.0%	36,811	52.1%	9,492	27.2%	8,409,260	39.3%	25.1%
Middle	30	30.6%	19,169	27.1%	9,731	27.9%	4,937,925	23.1%	32.2%
Upper	18	18.4%	14,729	20.8%	15,636	44.8%	8,065,330	37.7%	42.7%
Unknown	0	0.0%	0	0.0%	12	0.0%	8,090	0.0%	
<b>Total</b>	<b>98</b>		<b>70,709</b>		<b>34,871</b>		<b>21,420,605</b>		
<b>2019</b>									
<b>Geographic Income</b>	<b>Bank</b>				<b>Aggregate</b>				<b>OO HUs</b>
	<b>#</b>	<b>%</b>	<b>\$000's</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>\$000's</b>	<b>%</b>	<b>%</b>
Low	2	3.8%	1,292	3.6%	2,473	6.6%	2,151,555	9.1%	3.9%
Moderate	22	42.3%	16,102	45.3%	7,039	18.8%	5,611,365	23.7%	19.3%
LMI	24	46.2%	17,394	48.9%	9,512	25.4%	7,762,920	32.7%	23.2%
Middle	19	36.5%	12,538	35.3%	11,974	32.0%	6,490,760	27.4%	35.2%
Upper	9	17.3%	5,627	15.8%	15,967	42.6%	9,453,255	39.9%	41.6%
Unknown	0	0.0%	0	0.0%	20	0.1%	13,290	0.1%	
<b>Total</b>	<b>52</b>		<b>35,559</b>		<b>37,473</b>		<b>23,720,225</b>		
<b>GRAND TOTAL</b>									
<b>Geographic Income</b>	<b>Bank</b>				<b>Aggregate</b>				<b>OO HUs</b>
	<b>#</b>	<b>%</b>	<b>\$000's</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>\$000's</b>	<b>%</b>	<b>%</b>
Low	16	7.5%	12,747	8.9%	7,303	6.5%	5,940,749	9.2%	
Moderate	96	44.9%	66,136	46.0%	21,267	19.0%	16,126,647	24.9%	
LMI	112	52.3%	78,883	54.9%	28,570	25.5%	22,067,396	34.1%	
Middle	66	30.8%	39,649	27.6%	33,375	29.8%	16,364,913	25.3%	
Upper	36	16.8%	25,162	17.5%	50,158	44.7%	26,309,182	40.6%	
Unknown	-	0.0%	-	0.0%	49	0.0%	36,681	0.1%	
<b>Total</b>	<b>214</b>		<b>143,694</b>		<b>112,152</b>		<b>64,778,172</b>		



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*Small Business Loans:*

The distribution of ESB's small business loans among census tracts of varying income levels was less than adequate.

ESB's average rates of lending, at 26.7% by number and 31.1% by dollar value of loans in LMI income census tracts were significantly below the aggregate's rates of 45.3% and 44.1%, respectively. ESB's average rates of lending in LMI census tracts were also below the percentage of businesses located in LMI census tracts within the assessment area. As a result, ESB's small business lending in LMI census tracts was less than adequate.

The following table provides a summary of the distribution of ESB's small business loans by the income level of the geography where the business was located.

<b>Distribution of Small Business Lending by Geographic Income of the Census Tract</b>									
<b>2016</b>									
<b>Geographic Income</b>	<b>Bank</b>				<b>Aggregate</b>				<b>Bus.Dem.</b>
	<b>#</b>	<b>%</b>	<b>\$000's</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>\$000's</b>	<b>%</b>	<b>%</b>
Low	1	7.7%	450	9.5%	5,497	16.1%	116,498	14.7%	11.5%
Moderate	1	7.7%	400	8.5%	12,041	35.2%	259,192	32.8%	30.0%
LMI	2	15.4%	850	18.0%	17,538	51.3%	375,690	47.5%	41.5%
Middle	3	23.1%	1,058	22.4%	7,651	22.4%	189,720	24.0%	25.5%
Upper	8	61.5%	2,825	59.7%	8,423	24.6%	193,849	24.5%	31.6%
Unknown		0.0%	0	0.0%	593	1.7%	31,751	4.0%	1.4%
<b>Total</b>	<b>13</b>		<b>4,733</b>		<b>34,205</b>		<b>791,010</b>		
<b>2017</b>									
<b>Geographic Income</b>	<b>Bank</b>				<b>Aggregate</b>				<b>Bus.Dem.</b>
	<b>#</b>	<b>%</b>	<b>\$000's</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>\$000's</b>	<b>%</b>	<b>%</b>
Low	2	9.1%	950	9.3%	16,436	18.1%	388,616	17.2%	12.1%
Moderate	5	22.7%	3,050	29.9%	26,030	28.7%	626,116	27.8%	28.7%
LMI	7	31.8%	4,000	39.2%	42,466	46.8%	1,014,732	45.0%	40.8%
Middle	6	27.3%	3,445	33.8%	21,076	23.2%	545,056	24.2%	25.8%
Upper	9	40.9%	2,759	27.0%	26,324	29.0%	638,273	28.3%	32.7%
Unknown		0.0%		0.0%	836	0.9%	57,031	2.5%	0.7%
<b>Total</b>	<b>22</b>		<b>10,204</b>		<b>90,702</b>		<b>2,255,092</b>		
<b>2018</b>									
<b>Geographic Income</b>	<b>Bank</b>				<b>Aggregate</b>				<b>Bus.Dem.</b>
	<b>#</b>	<b>%</b>	<b>\$000's</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>\$000's</b>	<b>%</b>	<b>%</b>
Low	0	0.0%	0	0.0%	16,117	16.6%	420,344	17.2%	12.1%
Moderate	8	47.1%	3,918	47.5%	28,009	28.8%	686,270	28.1%	28.5%
LMI	8	47.1%	3,918	47.5%	44,126	45.4%	1,106,614	45.3%	40.6%
Middle	4	23.5%	2,175	26.3%	22,844	23.5%	561,576	23.0%	25.8%
Upper	5	29.4%	2,164	26.2%	29,347	30.2%	708,372	29.0%	32.9%
Unknown		0.0%		0.0%	982	1.0%	64,537	2.6%	0.7%
<b>Total</b>	<b>17</b>		<b>8,257</b>		<b>97,299</b>		<b>2,441,099</b>		
<b>2019</b>									
<b>Geographic Income</b>	<b>Bank</b>				<b>Aggregate</b>				<b>Bus.Dem.</b>
	<b>#</b>	<b>%</b>	<b>\$000's</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>\$000's</b>	<b>%</b>	<b>%</b>
Low	1	4.3%	820	6.2%	16,395	15.1%	427,950	15.8%	10.9%
Moderate	2	8.7%	1,751	13.2%	29,236	26.9%	689,899	25.4%	27.5%
LMI	3	13.0%	2,571	19.3%	45,631	42.0%	1,117,849	41.2%	38.4%
Middle	6	26.1%	3,056	23.0%	29,046	26.7%	728,374	26.8%	29.3%
Upper	14	60.9%	7,666	57.7%	32,624	30.0%	785,494	28.9%	31.7%
Unknown		0.0%		0.0%	1,358	1.2%	82,382	3.0%	0.7%
<b>Total</b>	<b>23</b>		<b>13,293</b>		<b>108,659</b>		<b>2,714,099</b>		
<b>GRAND TOTAL</b>									
<b>Geographic Income</b>	<b>Bank</b>				<b>Aggregate</b>				<b>Bus.Dem.</b>
	<b>#</b>	<b>%</b>	<b>\$000's</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>\$000's</b>	<b>%</b>	<b>%</b>
Low	4	5.3%	2,220	6.1%	54,445	16.5%	1,353,408	16.5%	
Moderate	16	21.3%	9,119	25.0%	95,316	28.8%	2,261,477	27.6%	
LMI	20	26.7%	11,339	31.1%	149,761	45.3%	3,614,885	44.1%	
Middle	19	25.3%	9,734	26.7%	80,617	24.4%	2,024,726	24.7%	
Upper	36	48.0%	15,414	42.2%	96,718	29.2%	2,325,988	28.4%	
Unknown	-	0.0%	-	0.0%	3,769	1.1%	235,701	2.9%	
<b>Total</b>	<b>75</b>		<b>36,487</b>		<b>330,865</b>		<b>8,201,300</b>		

**Action Taken in Response to Written Complaints with Respect to CRA: Not Rated**

Neither DFS nor ESB received any written complaints during the evaluation period regarding ESB's CRA performance.

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**Community Development Test:** Satisfactory

ESB's community development performance demonstrated reasonable responsiveness to the community development needs of its assessment area through community development loans, investments and services, considering ESB's capacity, and the need for and availability of opportunities for community development in its assessment area.

During the evaluation period, ESB made \$12.7 million in new community development loans and \$2 million in new community development investments. ESB also made \$61,246 in community development grants.

**Community Development Lending:** Satisfactory

During the evaluation period, ESB originated \$12.7 million in new community development loans. This demonstrated a reasonable level of community development lending over the course of the evaluation period.

<b>Community Development Loans</b>				
Purpose	This Evaluation Period		Outstandings from Prior Evaluation Periods	
	# of Loans	\$000	# of Loans	\$000
Affordable Housing	23	\$11,869		
Economic Development	1	\$695		
Community Services	1	\$100		
Other (Please Specify)				
<b>Total</b>	<b>25</b>	<b>\$12,664</b>	<b>0</b>	<b>0</b>

Below are highlights of ESB's community development lending.

- ESB originated an \$800,000 commercial mortgage to assist in the purchase of a six-unit multifamily affordable housing property in Richmond County. All of the units in the property are rented at rates below fair market value. Four of the units were rented by a nonprofit organization that provided supportive housing to LMI individuals with disabilities.
- ESB originated a \$750,000 commercial mortgage to assist in the purchase of a six-unit, rent-stabilized, multifamily property located in Kings County. All units in the property are rented at below fair market value, providing affordable housing for LMI individuals and families.
- ESB extended a \$750,000 commercial mortgage to assist in the purchase of a 10-unit rent-stabilized, multifamily property located in Kings County. The property participated in the New York City affordable housing program.
- ESB extended a \$695,000 SBA-guaranteed loan for the development and

completion of a small-town brewery located in Port Jervis, NY. The small business is projected to create 12 full-time jobs in a moderate-income tract.

- ESB extended a \$100,000 working capital line of credit to a nonprofit organization located in Richmond County. The nonprofit provided supportive services to individuals with developmental disabilities.

Community Development Investments: Satisfactory

During the evaluation period, ESB made \$2 million in new community development investments. In addition, ESB made \$61,246 in community development grants. This demonstrated a reasonable level of community development investments over the course of the evaluation period.

Community Development Investments and Grants				
	This Evaluation Period		Outstandings from Prior Evaluation Periods	
	# of Inv.	\$000	# of Inv.	\$000
CD Investments				
Affordable Housing	1	\$1,053		
Economic Development	1	\$1,000		
Community Services				
Other				
<b>Total</b>	<b>2</b>	<b>\$2,053</b>	<b>0</b>	<b>0</b>
CD Grants	# of Grants	\$000	Not Applicable	
Affordable Housing	4	\$3		
Economic Development	4	\$2		
Community Services	73	\$56		
Other				
<b>Total</b>	<b>81</b>	<b>\$61</b>		

Below are highlights of a description of ESB’s community development investments and grants.

Community Development Investments

- ESB invested \$1.1 million in Federal National Mortgage Association (“Fannie Mae”) mortgage-backed securities secured by five residential properties providing affordable housing for LMI individuals and families in Orange County, NY.
- ESB made a \$1 million deposit into a Minority Deposit Institution (“MDI”)<sup>1</sup> headquartered in the Bronx. The MDI also operates three branches in Brooklyn,

<sup>1</sup> Minority-Designated Institution is defined as (1) any federally insured depository institution where 51 percent or more of the voting stock is owned by minority individuals; or (2) where a majority of the Board of Directors is minority and the community that the institution serves is predominantly minority. As an MDI, an institution receives additional support from the federal government, such as training, technical assistance, and educational programs.

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New York, including one branch located in a moderate-income tract, providing banking services to LMI communities.

### Community Development Grants

During the evaluation period, ESB contributed \$61,246 in grants to various nonprofit organizations and foundations in the assessment area. These organizations provide a range of services, such as community services, food, legal services, economic development and affordable housing for LMI individuals and families.

- ESB donated \$10,314 to a foundation that provides supportive services for primarily low-income individuals and their families impacted by Autism Spectrum Disorder. The foundation is funded primarily by Medicaid.
- ESB donated \$2,650 to two nonprofit, affordable housing organizations. The organizations help to provide affordable housing for LMI individuals and families in Orange County, NY.
- ESB granted \$2,350 to a nonprofit organization dedicated to providing legal services to low-income individuals and families in Orange County. The legal services provided by the organization include assistance with housing, foreclosures, domestic violence, public benefits and consumer issues.

### Community Development Services: Outstanding

ESB demonstrated an excellent level of community development services over the course of the evaluation period.

ESB's senior management and other employees provided financial expertise and leadership as committee members, board members and/or directors of organizations that are crucial for community development in its assessment area.

Below are highlights of ESB's community development services.

- ESB's chief executive officer ("CEO") served as executive director and treasurer of an economic development corporation in Staten Island (Richmond County). The corporation was a nonprofit organization with a mission to promote public and private investments for employment opportunities in Staten Island. Another Bank employee is also a member of this organization. This employee primarily assists women-owned small businesses in Staten Island.
- The Bank's chief operating officer was a member of the finance and investment committee of a nonprofit, community and philanthropic foundation in the Hudson Valley. The foundation's mission was to enhance the quality of life of the underserved through funding of local nonprofit organizations. An assistant vice

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president of the Bank was also a member of the organization. Additionally, ESB's president and CEO served as a director from 2016 to 2018.

- An employee of the Bank was a member of a nonprofit organization located in Brooklyn. One of the organization's missions was to fight disease and poverty by helping underserved children have a safe and healthy environment. The Bank employee provided assistance for the organization's event scheduling during the evaluation period.
- ESB's CEO was a director of a nonprofit organization in the Hudson Valley, whose mission is to promote regional, balanced and sustainable solutions that enhance the growth and vitality of the Hudson Valley's communities.

### **Innovativeness of Community Development Investments:**

During the evaluation period, ESB did not make use of any innovative investments to support community development.

### **Responsiveness to Community Development Needs:**

ESB demonstrated a reasonable level of responsiveness to credit and community development needs during the evaluation period.

### **Additional Factors**

**The extent of participation by the banking institution's Board of Directors or Board of Trustees in formulating the banking institution's policies and reviewing its performance with respect to the purposes of the CRA.**

ESB's board of directors appoints the Bank's CRA officer who administers the Bank's CRA policy and program. The board stays abreast of the Bank's CRA performance through periodic CRA reports from the CRA officer and through compliance reports. The board also establishes and reviews the Bank's assessment area.

### **Discrimination and other illegal practices**

- *Any practices intended to discourage applications for types of credit set forth in the banking institution's CRA Public File.*

DFS examiners did not note evidence of practices by ESB intended to discourage applications for the types of credit offered by ESB.

- *Evidence of prohibited discriminatory or other illegal credit practices.*

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DFS examiners did not note evidence of prohibited discriminatory or other illegal practices.

### **Record of opening and closing offices and providing services at offices**

ESB operated five branches: two in Brooklyn (Kings County), two in Staten Island (Richmond County) and one in Orange County.

During the evaluation period, ESB opened two branches: one in Staten Island, in a middle-income tract; and one in Brooklyn, in a moderate-income tract. In addition, in 2019, the Bank opened a loan production office in Staten Island.

ESB sold its full-service branch in New Paltz, New York, located in a middle-income census tract, in 2017 and closed a loan production office in Brooklyn in 2018.

ESB's weekday branch hours of 8:30 AM to 6:00 PM were reasonable, and all branches offered Saturday hours from 8:30 AM to 3:00 PM. Supplementing the banking offices was an ATM network consisting of five full-service machines, one at each branch location and one cash-only ATM located at the loan production office in Staten Island. The Bank also had night depository drops at all of its branches and its customers had access to their accounts through 24/7 on-line and telephone banking. ESB did not have any off-site ATMs.

<b>Distribution of Branches within the Assessment Area</b>						
<b>County</b>	<b>Low #</b>	<b>Moderate #</b>	<b>Middle #</b>	<b>Upper #</b>	<b>Total #</b>	<b>LMI %</b>
Orange			1		1	0%
Richmond			1	1	2	0%
Kings		1		1	2	50%
<b>Total</b>	<b>-</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>5</b>	<b>20%</b>

### **Process Factors**

- Activities conducted by the banking institution to ascertain the credit needs of its community, including the extent of the banking institution's efforts to communicate with members of its community regarding the credit services being provided by the banking institution.

ESB ascertained the credit needs of its community through ongoing interaction with various nonprofit community groups. During the evaluation period, ESB employees and senior management served on the boards and various committees of local economic development corporations and nonprofit, community-based organizations which helped them identify the credit needs of the community the Bank served.

- The extent of the banking institution's marketing and special credit-related programs

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to make members of the community aware of the credit services offered by the banking institution

ESB's marketing and outreach primarily relied on personal contacts and the development of referral sources through the Bank's relationship managers. Additionally, the Bank marketed its products through association with community development and not-for-profit organizations within its assessment area.

**Other factors that in the judgment of the Superintendent bear upon the extent to which ESB is helping to meet the credit needs of its entire community**

During the evaluation period, ESB extended five community development loans, totaling \$2.7 million, to support affordable housing and economic development within New York State but outside the Bank's assessment area.



## **GLOSSARY**

### **Aggregate Lending**

The number of loans originated and purchased by all reporting lenders in specified categories as a percentage of the aggregate number of loans originated and purchased by all reporting lenders in the assessment area.

### **Banking Development District (“BDD”) Program**

The BDD Program is a program designed to encourage the establishment of bank branches in areas across New York State where there is a demonstrated need for banking services, in recognition of the fact that banks can play an important role in promoting individual wealth, community development, and revitalization. Among others, the BDD Program seeks to reduce the number of unbanked and underbanked New Yorkers and enhance access to credit for consumers and small businesses. More information about the program, may be found at <https://www.dfs.ny.gov> and search for the BDD Program.

### **Community Development**

“Community development”:

1. Affordable housing (including multifamily housing) for low- or moderate-income (“LMI”) individuals;
2. Community services targeted to LMI individuals;
3. Activities that promote economic development by financing business or farms that meet the size eligibility standards of the United States Small Business Administration (“SBA”) Development Company or Small Business Investment Company programs, or have gross annual incomes of \$1 million or less;
4. Activities that revitalize or stabilize LMI geographies; and
5. Activities that seek to prevent defaults and/or foreclosures in loans included in (1) and (3) above.

### **Community Development Loan**

A loan that has its *primary purpose* community development. This includes but is not limited to loans to:

- Borrowers for affordable housing rehabilitation and construction, including construction and permanent financing for multifamily rental property serving low or moderate income (“LMI”) persons;
- Nonprofit organizations serving primarily LMI or other community development needs;

- Borrowers to construct or rehabilitate community facilities that are located in LMI areas or that primarily serve LMI individuals;
- Financial intermediaries including community development financial institutions, community development corporations, minority- and women-owned financial institutions, community loan funds or pools, micro-finance institutions, and low-income or community development credit unions that primarily lend or facilitate lending to promote community development;
- Local, state and tribal governments for community development activities; and
- Borrowers to finance environmental clean-up or redevelopment of an industrial site as part of an effort to revitalize the LMI community in which the property is located.

### **Community Development Service**

Service that has community development as its *primary purpose*, is related to the provision of financial services, and has not been considered in the evaluation of the banking institution's retail banking services. This includes but is not limited to:

- Providing technical assistance on financial matters to nonprofit, tribal or government organizations serving LMI housing or economic revitalization and development needs;
- Providing technical assistance on financial matters to small businesses or community development organizations;
- Lending employees to provide financial services for organizations facilitating affordable housing construction and rehabilitation or development of affordable housing;
- Providing credit counseling, home buyers and home maintenance counseling, financial planning or other financial services education to promote community development and affordable housing;
- Establishing school savings programs for LMI individuals;
- Providing seminars for LMI persons on banking and bank account record-keeping;
- Making ATM "Training Machines" available for extended periods at LMI community sites or at community facilities that serve LMI individuals; and
- Technical assistance activities to community development organizations such as:
  - ❖ Serving on a loan review committee;
  - ❖ Developing loan application and underwriting standards;
  - ❖ Developing loan processing systems;
  - ❖ Developing secondary market vehicles or programs;
  - ❖ Assisting in marketing financial services, including the development of advertising and promotions, publications, workshops and conferences;
  - ❖ Furnishing financial services training for staff and management;
  - ❖ Contributing accounting/bookkeeping services; and
  - ❖ Assisting in fund raising, including soliciting or arranging investments.

## **Geography**

A census tract delineated by the United States Bureau of the Census in the most recent decennial census

## **Home Mortgage Disclosure Act (“HMDA”)**

The Home Mortgage Disclosure Act, enacted by Congress in 1975, and subsequently amended, requires institutions to annually report data about applications for residential (including multifamily) financing.

## **Income Level**

The income level for borrowers is based on household or family income. A geography’s income is categorized by median family income for the geography. In both cases, the income is compared to the Metropolitan Statistical Area (“MSA”) or statewide nonmetropolitan median income.

<b>Income level of individual or geography</b>	<b>% of the area median income</b>
Low-income	Less than 50
Moderate-income	At least 50 and less than 80
Middle-income	At least 80 and less than 120
Upper-income	120 or more

## **Small Business Loan**

A small business loan is a loan less than or equal to \$1 million.

## **Low or Moderate Income (“LMI”) Geographies**

Those census tracts or block numbering areas where, according to the 2010 U.S. Census, the median family income is less than 80% of the area median family income. In the case of tracted areas that are part of a MSA or Primary Metropolitan Statistical Area (“PMSA”), this would relate to the median family income for the MSA or PMSA in which the tracts are located. In the case of Block Numbering Areas (“BNAs”) and tracted areas that are not part of a MSA or PMSA, the area median family income would be the statewide non-metropolitan median family income.

## **LMI Borrowers**

Borrowers whose income, as reported on the loan application which the lender relied upon in making the credit decision, is less than 80% of the area median family income. In cases where the residential property is located in a MSA or PMSA, this would relate to the median family income for that MSA or PMSA. Otherwise, the area median family income would be the statewide non-metropolitan median family income. In all

instances, the area median family incomes used to measure borrower income levels are updated annually by the U.S. Department of Housing and Urban Development (“HUD”).

### **LMI Individuals/Persons**

Individuals or persons whose income is less than 80% of the area median family income. In the case where the individual resides in a MSA or PMSA, this would relate to the median family income for that MSA or PMSA. Otherwise, the area median family income would be the statewide non-metropolitan median family income. In all instances, the area median family incomes used to measure individual income levels are updated annually by HUD.

### **LMI Penetration Rate**

A number that represents the percentage of a bank’s total loans (for a particular product) that was extended to LMI geographies or borrowers. For example, an LMI penetration rate of 20% would indicate that the bank made 20 out of a total of 100 loans in LMI geographies or to LMI borrowers.

### **Low-Income Housing Tax Credit (“LIHTC”)**

A dollar for dollar tax credit for affordable housing, created under the Tax Reform Act of 1986, that provides incentives to invest in projects for the utilization of private equity in the development of affordable housing aimed at low income Americans. It is also more commonly called Section 42 credits in reference to the applicable section of the IRC. The tax credits are more attractive than tax deductions as they provide a dollar for dollar reduction in a taxpayer’s federal income tax. It is more commonly attractive to corporations since the passive loss rules and similar tax changes greatly reduced the value of tax credits and deductions to individual taxpayers.

### **Minority Depository Institutions (“MDIs”)**

An MDI is defined as a federal insured depository institution for which (1) 51 percent or more of the voting stock is owned by minority individuals; or (2) a majority of the board of directors is minority and the community that the institution serves is predominantly minority. For more of MDIs, go to FDIC.gov (Minority Depository Institutions Program) including list of MDIs.

### **New Markets Tax Credit (“NMTC”)**

The New Markets Tax Credits (NMTC) Program was established by Congress in December 2000 to stimulate economic and community development and job creation in low-income communities. It permits individual and corporate taxpayers to receive a credit against federal income taxes for making qualified equity investments in Community Development Entities (CDEs). The credit provided to the investor totals 39% of the cost of the investment and is claimed over a 7-year period. CDEs must use

substantially all of the taxpayer's investments to make qualified investments in low-income communities. The Fund is administered by the US Treasury Department's Community Development Financial Institutions Fund (CDFI).

### **Qualified Investment**

A lawful investment, deposit, membership share or grant that has community development as its *primary purpose*. This includes but is not limited to investments, deposits, membership shares or grants in or to:

- Financial intermediaries (including community development financial institutions, community development corporations, minority- and women-owned financial institutions, community loan funds, micro-finance institutions and low-income or community development credit unions) that primarily lend or facilitate lending in LMI areas or to LMI individuals in order to promote community development;
- Organizations engaged in affordable housing rehabilitation and construction;
- Organizations, including, for example, small business investment corporations that promote economic development by financing small businesses;
- Facilities that promote community development in LMI areas or LMI individuals, such as youth programs, homeless centers, soup kitchens, health care facilities, battered women's centers, and alcohol and drug recovery centers;
- Projects eligible for low-income housing tax credits;
- State and municipal obligations, such as revenue bonds that specifically support affordable housing or other community development needs;
- Organizations serving LMI housing or other community development needs, such as counseling for credit, home ownership, home maintenance, and other financial services education; and
- Organizations supporting activities essential to the capacity of LMI individuals or geographies to utilize credit to sustain economic development, such as day care operations and job training programs that facilitate access to permanent jobs.