



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

One State Street  
New York, NY 10004

**PUBLIC SUMMARY**

**COMMUNITY REINVESTMENT ACT  
PERFORMANCE EVALUATION**

**Date of Evaluation:** December 31, 2013

**Institution:** Bank of Utica  
222 Genesee Street  
Utica, NY 13502

**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 the Bank of Utica (“BU”) 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, 2013.

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 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 the 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 BU's performance according to the large bank performance criteria pursuant to Parts 76.8, 76.9 and 76.10 of the General Regulations of the Superintendent. This assessment period included calendar years 2011, 2012 and 2013. BU is rated "2," indicating a "**Satisfactory**" record of helping to meet community credit needs.

This rating is based on the following factors:

### **Lending Test: "High Satisfactory"**

BU's lending levels are reasonable considering its size, business strategy and financial condition, as well as peer group activity and demographics.

BU originated 81.4% by number and 73.7% by dollar value of its loans within its assessment area. This majority of lending inside of its assessment area is a good record of lending.

The distribution of small business loans based on lending in census tracts of varying income levels demonstrated an excellent penetration rate of lending.

For community development lending, BU originated \$18.7 million in new community development loans. This demonstrated a reasonable level of community development lending over the course of the evaluation period.

### **Investment Test: "Outstanding"**

During the evaluation period, BU made \$16.8 million in new community development investments, and had \$5.4 million outstanding from prior evaluation periods. In addition, BU made \$224,000 in community development grants. This demonstrated an excellent level of community development investments and grants over the course of the evaluation period.

### **Service Test: "High Satisfactory"**

BU has good delivery systems, branch hours and services, and alternative delivery systems.

*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 Part 76 of the General Regulations of the Superintendent.*

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## PERFORMANCE CONTEXT

### Institution Profile:

BU, chartered in 1927, is a single office, commercial bank located in the City of Utica, in Oneida County, New York. BU is a public company whose stock is thinly traded. BU maintains no holding company or affiliate relationships other than the Bank of Utica Foundation, Inc. The foundation is a nonprofit, charitable organization providing grants and donations on behalf of BU.

Per the Consolidated Report of Condition (the "Call Report") as of December 31, 2013, filed with the Federal Deposit Insurance Corporation ("FDIC"), BU reported total assets of \$951.5 million, of which \$52.8 million were net loans and lease finance receivables. It also reported total deposits of \$726.1 million, resulting in a loan-to-deposit ratio of 7.3%. According to the latest available comparative deposit data as of June 30, 2014, BU had a market share of 25.04%, or \$793.9 million in a market of \$3.2 billion, ranking it first among 12 deposit-taking institutions in the assessment area.

The following is a summary of BU's loan portfolio, based on Schedule RC-C of the bank's December 31, 2011, 2012 and 2013 Call Reports:

<b>TOTAL GROSS LOANS OUTSTANDING</b>						
Loan Type	2011		2012		2013	
	\$000's	%	\$000's	%	\$000's	%
1-4 Family Residential Mortgage Loans	3,824	7.2	3,607	7.2	3,088	5.8
Commercial & Industrial Loans	20,674	38.7	22,013	43.9	22,158	42.0
Commercial Mortgage Loans	20,905	39.1	18,717	37.3	21,055	39.9
Consumer Loans	6,755	12.6	5,590	11.1	5,709	10.8
Other Loans	1,262	2.4	257	0.5	808	1.5
<b>Total Gross Loans</b>	<b>53,420</b>		<b>50,184</b>		<b>52,818</b>	

As illustrated in the above table, as of December 31, 2013, BU was primarily a commercial lender, with 81.9% of its loan portfolio in commercial loans. This was comprised of commercial and industrial loans at 42.0% and commercial mortgage loans at 39.9%. Over the course of the evaluation period, commercial lending increased while residential and consumer loans trended downward.

Since BU's major lending product is commercial loans, the focus of this CRA evaluation was BU's small business lending activities. While BU originated HMDA-reportable loans, there were only a few loans and they would not make a material difference in this evaluation.

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*There are no known financial or legal impediments that adversely impacted BU's ability to meet the credit needs of its community.*

**Assessment Area:**

BU's assessment area is comprised of portions of Oneida County which includes the City of Utica and the surrounding suburbs of New Hartford, Clinton, Kirkland, Deerfield, Marcy, Whitestown, New York Mills, Yorkville and Oriskany.

There are 49 census tracts in the area, of which seven are low-income, nine are moderate-income, 15 are middle-income, 14 are upper-income, and four are tracts with no income indicated.

<b>Assessment Area Census Tracts by Income Level</b>							
County	N/A	Low	Mod	Middle	Upper	Total	LMI %
Oneida*	4	7	9	15	14	49	32.7
Total	4	7	9	15	14	49	32.7

*\*Partial county*

**Demographic & Economic Data:**

The assessment area had a population of 155,063 during the evaluation period. Approximately 15.7% of the population were over the age of 65 and 19.1% were under the age of sixteen.

Of the 38,629 families in the assessment area, 21.9% were low-income, 15.3% were moderate-income, 19.6% were middle-income, and 43.2% were upper-income families. There were 60,347 households in the assessment area, of which 14.6% had income below the poverty level and 4.0% were on public assistance.

Households in the City of Utica are the poorest in the assessment area, with 25.2% living below the poverty level and 7.7% are on public assistance, for a total of 32.9% or one-third of the households. The percentage of households living below poverty level and public assistance are significant factors of the reduced capacity of borrowers and effectively limits the ability of BU to lend in the area.

The weighted average median family income in the assessment area was \$56,800.

There were 66,571 housing units within the assessment area, of which 84.9% were one-to-four family units, and 11.8% were multifamily units. A majority (59.8%) of the area's housing units were owner-occupied, while 30.9% were rental units. Of the 39,793 owner-occupied housing units, 14.5% were in low- and moderate-income

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census tracts while 85.5% were in middle- and upper-income census tracts. The median age of the housing stock was 62 years and the median home value in the assessment area was \$111,294.

There were 9,239 non-farm businesses in the assessment area. Of these, 72.4% were businesses with reported revenues of less than or equal to \$1 million; 5.6% reported revenues of more than \$1 million; and 21.6% did not report their revenues. Of all the businesses in the assessment area, 83.7% were businesses with less than fifty employees and 87.9% operated from a single location. The largest industries in the area were services (46.3%), retail trade (15.4%) and construction (6.9%), while 8.0% of businesses in the assessment area were not classified.

According to the New York State Department of Labor, the average NYS unemployment rate eased from 8.5% in 2012 to 7.7% in 2013. However, Utica's average unemployment rates exceeded all other regions (national, NYS, and county), reaching double digits in 2012 at 10.0%, while the state's rate peaked in 2011 at 8.9% and Oneida County peaked at 8.5% in 2012.

According to the 2013 Fiscal Profile of the City of Utica from the New York State Comptroller's Office, Utica has experienced a dramatic drop in population, coupled with increases in unemployment, poverty and property vacancy. The city has been in fiscal decline in recent years and faces significant challenges due to the socio-economic profile of its population and the loss of many manufacturing industries.

<b>Assessment Area Unemployment Rate</b>				
	National	NYS	Oneida	City of Utica
2011	8.9%	8.3%	8.2%	9.5%
2012	8.1%	8.5%	8.5%	10.0%
2013	7.4%	7.7%	7.7%	8.9%

**Community Information:**

For this evaluation, two nonprofit community organizations were interviewed to understand more about BU's assessment area, its changing demographics, and its banking and credit needs.

The two organizations that were chosen are deeply rooted in the City of Utica. One is a business center established not only to assist women and small businesses in a variety of business and technical skills but also provide various classes for the well-being of its community; while the other is a community-based organization providing low-income residents and their neighborhoods with programs to help overcome poverty.

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In addition to the high unemployment and poor socio-economic conditions, the community contacts further referred to the City of Utica's demographics. In the 2010 census report, the city reported more than half of the population (55.2%) were LMI individuals, more than a quarter (25.2%) of the population were below the poverty level, and 7.7% received public assistance. The city school district reported more than 40 languages were spoken, due in large part to refugee and immigrant concentrations, and 80% of students received free or subsidized lunches in 2011-2012.

With these challenges facing the community, they noted that BU, as a local bank, is active in the community and receptive to its needs. The president and staff of BU are always willing and readily available to assist nonprofit organizations. However, one organization observed that problems specific to the black community are mostly ignored, both in the private and public sectors.

There are opportunities in the assessment area for community development services, particularly in financial literacy programs to help assist refugees and immigrants.

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## **PERFORMANCE STANDARDS AND ASSESSMENT FACTORS**

*DFS evaluated BU under the large bank performance standards in accordance with Parts 76.8, 76.9 and 76.10 of the General Regulations of the Superintendent which consist of the lending, investment and service tests. The following factors were also considered 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. 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.*

*Finally, the evaluation considered other factors as delineated in Section 28-b of the New York Banking Law that reasonably bear upon the extent to which a banking institution is helping to meet the credit needs of its entire community.*

DFS used statistics in this evaluation derived from various sources. BU 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. Loan-to-deposit ratios were calculated from information shown in the bank's Uniform Bank Performance Report as submitted to the FDIC.

The demographic data referred to in this report was derived from the 2010 U.S. Census ("Census") and the U.S. Department of Housing and Urban Development ("HUD"). Business demographic data used in this report is based on Dun & Bradstreet reports which are updated annually. Unemployment data was obtained from the New York State Department of Labor. Some non-specific bank data is only available on a county-wide basis, and was used even where the institution's assessment area includes partial counties.

The assessment period included calendar years 2011, 2012 and 2013.

Examiners considered BU's small business lending in evaluating factors (2), (3) and (4) of the lending test as noted below. BU made few residential loans, and since BU did not make any small farm loans, all analyses were based only on small business lending.

Included in this CRA evaluation were BU's community development investments in the form of grants from the Bank of Utica Foundation. The foundation is a nonprofit organization that provides charitable donations on the bank's behalf.

BU received a rating of "2," reflecting a "Satisfactory" record of helping to meet

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community credit needs at its **prior** Performance Evaluation, conducted by the New York State Banking Department as of December 31, 2010.

**Current CRA Rating: “Satisfactory”**

**LENDING TEST:** “High Satisfactory”

*The bank’s lending performance was evaluated pursuant to the following criteria:*

- (1) Lending Activity;*
- (2) Assessment Area Concentration;*
- (3) Geographic Distribution of Loans;*
- (4) Borrower Characteristics;*
- (5) Community Development Lending; and*
- (6) Flexible and/or Innovative Lending Practices.*

BU’s small business activities were reasonable in light of the bank’s size, business strategy and financial condition, as well as peer group activity, demographics, and its assessment area’s credit needs.

**Lending Activity:** “High Satisfactory”

BU’s lending levels were reasonable considering its size, business strategy and financial condition, as well as peer group activity and demographics.

BU’s loan-to-deposit (“LTD”) ratios have historically been very low. The majority of BU’s assets for the year ending 2013 were securities at 84.5% or \$804 million. For this evaluation period, BU’s loan-to-deposit (“LTD”) average ratio was 6.8% which is significantly below its peer group’s average LTD ratio of 74.9%. For all 12 quarters of the evaluation period, BU’s LTD ratios remained in the single digits, ranging from a low of 6.4% to a high of 7.3%, while its peer group’s ratios were consistently in the mid 70% range.

BU’s low LTD ratios were indicative of limited loan demand due primarily to a high concentration of refugees and immigrants, and a highly competitive lending market (39 lenders), particularly in the City of Utica, where BU’s one office is located. The City of Utica’s business demographics are as follows: Of the 3,550 non-farm businesses in the city, 61.54% are located in low- to moderate-income (“LMI”) census tracts; 60.7% reported employee size of one to four people, and 15.2% did not report this information, making it possible that more than 75.0% of businesses had less than five employees. Unemployment rates were higher than the county, state and national rates (discussed further in the Assessment Area section of this report).

It is worth noting that even with this kind of a difficult lending market environment, BU is ranked 6<sup>th</sup> in small business lending in the assessment area. BU competes with 39 other lenders (regional and national banks and credit unions), achieving their rank with one office, supported by 36 full-time employees.

<b>Loan-to-Deposit Ratios</b>													
	2011 Q1	2011 Q2	2011 Q3	2011 Q4	2012 Q1	2012 Q2	2012 Q3	2012 Q4	2013 Q1	2013 Q2	2013 Q3	2013 Q4	Avg.
Bank	7.3	7.0	6.9	7.2	7.2	6.8	6.7	6.7	6.4	6.4	6.4	6.6	6.8
Peer	76.5	76.6	75.9	75.1	73.3	74.3	74.5	74.0	73.2	74.9	75.1	75.8	74.9

### Assessment Area Concentration: “High Satisfactory”

During the evaluation period, BU originated 81.4% by number, and 73.7% by dollar value of its small business loans within the assessment area. This majority of lending inside of its assessment area is a good record of lending. BU’s lending inside the assessment area trended upward, showing its highest lending in 2013 at 87.9% by number and 83.6% by dollar value.

The following table shows the percentages of BU’s 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
	#	%	#	%		\$	%	\$	%	
<b>Small Business</b>										
2011	142	72.8%	53	27.2%	195	8,245	63.6%	4,716	36.4%	12,961
2012	145	83.3%	29	16.7%	174	8,936	71.8%	3,505	28.2%	12,441
2013	181	87.9%	25	12.1%	206	12,961	83.6%	2,539	16.4%	15,500
<b>Grand Total</b>	<b>468</b>	<b>81.4%</b>	<b>107</b>	<b>18.6%</b>	<b>575</b>	<b>30,142</b>	<b>73.7%</b>	<b>10,760</b>	<b>26.3%</b>	<b>40,902</b>

### Geographic Distribution of Loans: “Outstanding”

The distribution of small business loans based on lending in census tracts of varying income levels demonstrated an excellent penetration rate of lending.

BU’s average rates of lending to low- and moderate-income geographies (“LMI”) of 35.3% by number and 29.2% by dollar value outperformed its peer or market aggregate’s average rates of 22.6% and 22.2%, respectively. In all years of the evaluation, BU’s rates of lending by number to LMI geographies were more than its aggregate’s and business demographics. In 2011, BU’s rates of lending to LMI geographies reached its highest at 45.1% by number and 42.2% by dollar value, while the aggregates were 29.3% and 36.0%, respectively.

The following table provides a summary of BU’s small business lending distribution based on the income level of the geography.

Distribution of Small Business Lending by Geographic Income of the Census Tract									
2011									
Geographic Income	Bank				Aggregate				Bus.Dem.
	#	%	\$000's	%	#	%	\$000's	%	%
Low	25	17.6%	2,020	24.5%	299	14.7%	16,661	25.5%	21.4%
Moderate	39	27.5%	1,458	17.7%	299	14.7%	6,882	10.5%	19.1%
LMI	64	45.1%	3,478	42.2%	598	29.3%	23,543	36.0%	40.5%
Middle	27	19.0%	1,512	18.3%	670	32.9%	19,435	29.8%	33.3%
Upper	51	35.9%	3,255	39.5%	771	37.8%	22,337	34.2%	26.2%
Unknown		0.0%		0.0%		0.0%		0.0%	
<b>Total</b>	<b>142</b>		<b>8,245</b>		<b>2,039</b>		<b>65,315</b>		
2012									
Geographic Income	Bank				Aggregate				Bus.Dem.
	#	%	\$000's	%	#	%	\$000's	%	%
Low	13	9.0%	601	6.7%	149	6.3%	2,531	3.2%	14.3%
Moderate	31	21.4%	1,572	17.6%	294	12.4%	9,542	11.9%	18.4%
LMI	44	30.3%	2,173	24.3%	443	18.8%	12,073	15.1%	32.7%
Middle	47	32.4%	2,857	32.0%	901	38.1%	33,544	41.9%	30.6%
Upper	52	35.9%	3,590	40.2%	989	41.9%	31,212	38.9%	28.6%
Unknown	2	1.4%	316	3.5%	29	1.2%	3,318	4.1%	8.2%
<b>Total</b>	<b>145</b>		<b>8,936</b>		<b>2,362</b>		<b>80,147</b>		
2013									
Geographic Income	Bank				Aggregate				Bus.Dem.
	#	%	\$000's	%	#	%	\$000's	%	%
Low	8	4.4%	986	7.6%	96	4.9%	2,195	2.8%	14.3%
Moderate	49	27.1%	2,176	16.8%	297	15.3%	11,712	15.0%	18.4%
LMI	57	31.5%	3,162	24.4%	393	20.2%	13,907	17.8%	32.7%
Middle	56	30.9%	5,251	40.5%	738	38.0%	30,681	39.4%	30.6%
Upper	63	34.8%	3,913	30.2%	780	40.1%	30,104	38.6%	28.6%
Unknown	5	2.8%	635	4.9%	32	1.6%	3,273	4.2%	8.2%
<b>Total</b>	<b>181</b>		<b>12,961</b>		<b>1,943</b>		<b>77,965</b>		
GRAND TOTAL									
Geographic Income	Bank				Aggregate				Bus.Dem.
	#	%	\$000's	%	#	%	\$000's	%	%
Low	46	9.8%	3,607	12.0%	544	8.6%	21,387	9.6%	
Moderate	119	25.4%	5,206	17.3%	890	14.0%	28,136	12.6%	
LMI	165	35.3%	8,813	29.2%	1,434	22.6%	49,523	22.2%	
Middle	130	27.8%	9,620	31.9%	2,309	36.4%	83,660	37.4%	
Upper	166	35.5%	10,758	35.7%	2,540	40.0%	83,653	37.4%	
Unknown	7	1.5%	951	3.2%	61	1.0%	6,591	2.9%	
<b>Total</b>	<b>468</b>		<b>30,142</b>		<b>6,344</b>		<b>223,427</b>		

### Distribution by Borrower Characteristics: "High Satisfactory"

The distribution of small business loans based on the revenue size of the business demonstrated a good rate of lending among businesses of different revenue sizes.

The business demographics of BU's average rates of lending to businesses with gross annual revenue of \$1.0 million or less of 61.5% by number and 46.7% by dollar value surpassed its aggregate's average rates of 37.5% and 39.0%, respectively. The business demographics rate of 71.8% for the same group further illustrated the tough market and economic conditions of the assessment area.

The following table provides a summary of BU's small business lending distribution based on revenue size during the evaluation period:

<b>Distribution of Small Business Lending by Revenue Size of Business</b>									
<b>2011</b>									
<b>Rev. Size</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>	
Rev. <= \$1MM	100	70.4%	3,629	44.0%	625	30.7%	22,455	34.4%	66.7%
Rev. > \$1MM	42	29.6%	4,616	56.0%	1,414		42,860		4.3%
Rev. Unknown		0.0%		0.0%					29.0%
<b>Total</b>	<b>142</b>		<b>8,245</b>		<b>2,039</b>		<b>65,315</b>		
<b>2012</b>									
<b>Rev. Size</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>	
Rev. <= \$1MM	88	60.7%	3,166	35.4%	874	37.0%	31,132	38.8%	71.2%
Rev. > \$1MM	57	39.3%	5,770	64.6%	1,488		49,015		5.3%
Rev. Unknown		0.0%		0.0%					23.5%
<b>Total</b>	<b>145</b>		<b>8,936</b>		<b>2,362</b>		<b>80,147</b>		
<b>2013</b>									
<b>Rev. Size</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>	
Rev. <= \$1MM	100	55.2%	7,269	56.1%	877	45.1%	33,747	43.3%	71.8%
Rev. > \$1MM	81	44.8%	5,692	43.9%	1,066		44,218		5.8%
Rev. Unknown		0.0%		0.0%					22.4%
<b>Total</b>	<b>181</b>		<b>12,961</b>		<b>1,943</b>		<b>77,965</b>		
<b>GRAND TOTAL</b>									
<b>Rev. Size</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>	
Rev. <= \$1MM	288	61.5%	14,064	46.7%	2,376	37.5%	87,334	39.1%	
Rev. > \$1MM	180	38.5%	16,078	53.3%	3,968		136,093		
Rev. Unknown		0.0%		0.0%	0				
<b>Total</b>	<b>468</b>		<b>30,142</b>		<b>6,344</b>		<b>223,427</b>		

### Community Development Lending: "High Satisfactory"

During the evaluation period, BU originated \$19.3 million in new community development loans. This demonstrated an adequate level of community development lending over the course of the evaluation period.

<b>Community Development Loans</b>		
This Evaluation Period		
Purpose	# of Loans	\$000
Affordable Housing	3	4,194
Economic Development	2	3,000
Community Services	5	12,200
Other (Please Specify)		
<b>Total</b>	<b>10</b>	<b>19,394</b>

Below are highlights of BU's community development lending.

In 2011, a nonprofit, certified community housing development organization had a \$1.5 million line of credit which was renewed in 2012 and in 2013 for \$1.2 million, for a total qualified community development loan of \$4.2 million. The organization's primary focus and mission is to pursue community development projects within the City of Utica, and make it possible for lower-income families to become first-time homebuyers. The line of credit was used as a commitment for the application of grant money for the construction of affordable housing projects in the City of Utica.

Located in a low-income census tract in the City of Utica, a nonprofit association was formed in 1929 to assist people who are blind or visually impaired to achieve their highest level of independence. The association provides comprehensive vision rehabilitation services and employment services to the blind and visually impaired. During the evaluation period, BU extended a \$2.0 million line of credit which was renewed annually for total qualified community development lending of \$6.0 million.

BU participated, together with another local bank, in the construction project funding of a local economic development corporation. BU's share was 50.0% for two rounds of temporary funding: \$1.2 million in 2011 and \$1.8 million for a total community development loan of \$3.0 million. Funds were used as part of the construction of a by-pass of a local road under development. The project is in conjunction with Empire State Development Corp. and the Dormitory Administration of the State of New York.

**Flexible and/or Innovative Lending Practices:**

During the evaluation period, BU made limited use of innovative or complex lending and investment practices. As discussed above, BU was a participant in the funding of a construction project with other lenders and government agencies.

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**INVESTMENT TEST:** “Outstanding”

*BU’s investment performance is evaluated pursuant to the following criteria:*

- (1) The dollar amount of qualified investments;*
- (2) The innovativeness or complexity of qualified investments; and*
- (3) The responsiveness of qualified investments to credit and community development needs.*

BU’s community development investments were more than reasonable in light of the assessment area’s credit needs.

**Community Development Investments:**

During the evaluation period, BU made \$16.8 million in new community development investments, and had \$5.3 million outstanding from prior evaluation periods. In addition, BU made \$224,000 in community development grants. This demonstrated an excellent level of community development investments and grants 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			2	239
Community Services	14	4,775	2	1,143
Economic Development			1	25
Revitalize/Stabilize	8	12,078	12	3,962
<b>Total</b>	<b>22</b>	<b>16,853</b>	<b>17</b>	<b>5,369</b>
CD Grants	# of Grants	\$000	Not Applicable	
Affordable Housing	2	21		
Community Services	36	167		
Economic Development	9	36		
Other (Please Specify)				
<b>Total</b>	<b>47</b>	<b>224</b>		

Below are highlights of BU’s community development investments and grants.

During the evaluation period, BU’s new and prior period outstanding qualified community development investments were entirely in the form of municipal bonds issued by City of Utica and the Utica City School District (“CSD”).

**City of Utica**

The majority of the City of Utica’s income census tracts are comprised of LMI census

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tracts (17 out of 24 census tracts). A majority of its family demographics (55.2%) were LMI tracts. The poverty level was 25.2% and 7.7% of the households receive public assistance. BU's investments in the City of Utica are important as these provide and support revitalization and/or stabilization in the city.

- During the evaluation period, BU purchased eight City of Utica municipal bonds totaling \$12.1 million. Of this total, BU purchased a \$6.9 million revenue anticipation note from the city. The proceeds were allocated to the city's working capital expenditures. Other municipal bonds, including 12 that were outstanding from a prior period (\$3.9 million), funded various reconstruction and improvement projects.

#### Utica City School District

Historically, the school district provides free or reduced priced lunches to a significant majority of its students. In school year 2010-2011, 69% of its students received free lunches and 7% received reduced priced lunches. In school year 2011-2012, the rates were 74% and 6%, respectively.

- BU purchased 14 CSD bonds totaling \$4.76 million. In addition, BU had outstanding two prior CSD bonds totaling \$1.1 million.

#### **Grants**

BU made \$224,000 in community development grants during the evaluation period, which were used to support community services, affordable housing and economic development in the assessment area. A majority or \$167,000 supported nonprofit organizations providing community services to LMI individuals and families, such as: food pantries, family services for at-risk children and families, families in foster care, emergency shelters, and for teaching the visually impaired to acquire jobs.

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

Due to a lack of opportunities in the assessment area, BU did not use innovative investments to support community development.

#### **Responsiveness of Community Development Investments to Credit and Community Development Needs:**

BU's community development investments exhibited excellent responsiveness to credit and community development needs. As discussed above, BU was a leader in providing financing in the assessment area, particularly to the City of Utica and to the local school district.

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**SERVICE TEST:** “High Satisfactory”

*BU’s retail service performance is evaluated pursuant to the following criteria:*

- (1) The current distribution of the banking institution’s branches;*
- (2) The institutions record of opening and closing branches;*
- (3) The availability and effectiveness of alternative systems for delivering retail services;*  
*and*
- (4) The range of services provided.*

*BU’s community development service performance is evaluated pursuant to the following criteria:*

- (1) The extent to which the banking institution provides community development services; and*
- (2) The innovativeness and responsiveness of community development services.*

**Retail Banking Services:** “High Satisfactory”

BU continues to have good delivery systems, branch hours and services, and alternative delivery systems.

**Current distribution of the banking institution’s branches:**

BU operates one office in the City of Utica, having serviced the city since 1927. The location is adjacent to LMI census tracts. Historically, the location has been in a low-income census tract, but the 2010 census report designated the census tract as middle-income.

BU is open Monday through Friday, 9:00 AM to 5:00PM, supported by a drive-through window which is open the same time, but with extended hours on Fridays until 5:30PM.

**Availability and effectiveness of alternative systems for delivering retail services:**

BU’s delivery systems continue to be accessible to portions of the bank’s assessment area, particularly to LMI geographies, LMI individuals and small businesses.

BU is located in the heart of the city, benefiting LMI customers and small businesses in accessing BU’s alternative systems and delivery of its retail services. The office location is accessible by walking or by driving, and offers free parking (validation of garage parking). Customers can use the services of the three drive-through/drive-up windows or a walk-up teller window. For the convenience, primarily of its small business owners, BU has two night-drop depositories.

BU offers other free services, such as free postage bank-by-mail; electronic banking through its internet website with free online bill payment and email correspondence; direct deposit; 24 hour telephone banking; and two non-deposit taking ATMs (office

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ATM and one off-site ATM located in the Hotel Utica). In addition, BU's president and CEO's desk is located on the branch floor level, making him readily available and accessible to bank customers, reflecting the BU's hands-on approach.

*Range of services provided:*

BU's range of services continues to meet the needs of its assessment area, particularly the LMI geographies, LMI individuals, and small businesses.

BU has the following retail products and services that benefit LMI individuals, local municipalities, nonprofit organizations and small businesses:

- Free Personal Checking Accounts
- Free Mobile Banking
- Free QuickDraw Visa Debit/ATM Card
- Free Tax-exempt Checking for Human Service Organizations plus interest (charitable, philanthropic, educational, civic, cultural or religious)
- Free Municipal Checking, plus interest
- E-Corp (corporate banking) including:
  - Remote Deposit Capture
  - Automatic Account Reconciliation
  - Electronic Customer Originated Payments ("ACH")
  - Electronic Collection of Account Receivable
  - 12 months statements on CD ROMs

**Community Development Services: "Satisfactory"**

BU provided a reasonable level of community development services. Below are highlights of BU's community development services.

A director and senior vice president ("SVP") is a member of the finance and executive committees of a nonprofit association located in a low-income census tract in the City of Utica. The association provides training, education and assistance to the visually-impaired in preparation for employment opportunities. This person attends the various meetings which entails meeting four times a year for the finance committee and three times a year for the executive committee. These individuals are also the treasurer of a nonprofit organization that offers homeless or needy individuals a daytime shelter and free meals three times a day.

A member of the board of directors is a second vice president and the chair of the finance committee for a council of nonprofits. This organization provides resources for its members, such as "capacity building, governance, operations support, educational events and conferences, group purchasing and discount programs, and employee benefits and insurance programs." This individual is also a board member and finance committee member of a nonsectarian membership organization whose mission is to eliminate racism and empower women. This organization provides programs, such as domestic and sexual violence crisis services, emergency and transitional housing for

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domestic violence victims, housing and support for runaway and homeless girls, and violence prevention education and outreach.

Another member of the board is a member of the advisory board of a nonprofit organization that provides shelters for the homeless including food, clothing and other necessities. The organization also helps with job services, mental health and addiction recovery programs.

One of BU's SVP's is a member of the audit and finance committee of a regional nonprofit business organization which provides its business members access to health insurance options, energy savings, business referrals and education and training. This individual also attends quarterly meetings of a regional economic development organization that also assists businesses to locate and grow in the region.

BU's auditor was a member of the funds allocation committee in 2011 and 2012, and currently is a member of the resource development committee and board treasurer of a nonprofit organization that "brings together companies, individuals, and agencies to create a positive change in the community by connecting people, resources, and ideas to create a thriving community." The committee develops ways to increase donations and/or grants, allocates the disbursements of funds and oversees all aspects of the organization's accounting.

### **Additional Factors**

The following factors were also considered in assessing BU's record of performance.

### **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 Community Reinvestment Act**

#### **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 did not note any practices that were intended to discourage applications for the types of credit offered by BU.

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

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

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## 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.

In addition to the affiliations of the members of the board of directors and senior bank officers discussed above, other members of bank management regularly meet with city, county and locally elected political figures to discuss and assess the economic conditions of the assessment area. Other activities that BU conducts to ascertain the credit and banking needs of its assessment area are the following:

- BU's lending officers are active in a local nonprofit organization whose mission is to emphasize development in one of Utica's blighted neighborhoods. They are also active with local nonprofits serving LMI individuals in the neighborhood.
- Other bank officers are involved with various community groups and civic organizations in the City of Utica area, such as the Downtown Utica Development Association and a local and regional business organization.

It is through these meetings with political figures, and affiliations and involvements with local and regional organizations that BU is able to ascertain the credit and banking needs of its assessment area.

- The extent of the banking institution's marketing and special credit-related programs to make members of the community aware of the credit services offered by the banking institution.

BU regularly advertises its products and services in local newspapers and local magazines. BU also uses other media outlets, such as local radio and television stations broadcasting throughout the assessment area.

Since the prior CRA evaluation, as of December 31, 2010, neither BU nor DFS received any written complaints regarding BU's CRA performance.

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

DFS noted no other factors.

## GLOSSARY

### Aggregate Penetration Rate

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.

### 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 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

## **Loans to Small Businesses**

Small business loans to businesses with gross annual revenues of \$1 million or less.

## **Low or Moderate Income ("LMI") Geographies**

Those census tracts or block numbering areas where, according to the 2000 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 Metropolitan Statistical Area ("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 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.

### **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.