

May 16, 2013

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
Mail Stop 9W-11
400 7th Street, SW
Washington DC 20219
Docket ID OCC-2013-0003
Regs.comments@occ.treas.gov

Mr. Robert deV. Frierson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington DC 20551
Docket No. OP-1456
Regs.comments@federalreserve.gov

Mr. Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington DC 20429
Comments@fdic.gov

Dear Ladies and Gentlemen:

On behalf of the members of the Community Development Bankers Association (CDBA), we are writing in response to the Notice for Public Comment published in the Federal Register on March 18, 2013 by the Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the Agencies). This Notice is seeking public comment on Community Reinvestment Act (CRA) Interagency Questions and Answers.

CDBA is the national trade association of the community development banking sector and the voice and champion of CDFI banks and thrifts, which have a mission of serving Low and Moderate Income (LMI) communities. CDBA represents Federal and State chartered banks and thrifts and their holding companies that are certified by the U.S. Treasury Department's Community Development Financial Institutions (CDFI) Fund as Community Development Financial Institutions (CDFIs). To be certified as a CDFI, the bank must demonstrate that at least 60% of its total business activities are targeted to LMI communities and people. In total there are approximately 80 CDFI banks throughout the United States. CDFI banks share a common mission of improving underserved communities. CDBA members serve our nation's most distressed and credit starved communities and are engines of economic inclusion throughout the United States.

CDFI banks make a difference in the lives of tens of thousands of people in the communities they serve. CDFI banks are often the only source of credit and financial services in these communities. CDFI banks make loans to build and renovate housing so that people have a decent place to live. Our housing lending, in turn, sparks revitalization of other housing in our neighborhoods. CDFI banks make loans to small businesses so that people will have jobs. The businesses our banks lend to, in turn, act as magnets that draw other businesses into the community. Our lending has a ripple effect throughout the community far beyond our direct customers, changing a community's dynamic.

Within the context of CRA, CDFI banks have a unique perspective. They are part of a small handful of financial institutions that are both subject to CRA regulation and potential recipients of investments and deposits by other banks with CRA obligations. We applaud the Agencies for their efforts to update the regulations. Some of the proposed changes codify practices that banks have already been engaging in, but will benefit from explicit recognition that adds needed clarity.

Effective Implementation of the new Q&As at the examiner level is critically important; thus, we strongly advise the agencies to follow through with examiner guidance and training to ensure CRA evaluations are predictable and consistent for all parties. Such training and guidance should give banks fair consideration for experimentation and developing new products and services tailored to local, low-and-moderate income markets.

Community Development Activities Outside of an Institution's Assessment Area(s) in the Broader Statewide or Regional Area that Includes the Institution's Assessment Area(s)

We agree with the intention of the proposed Q&A to clarify the circumstances under which institutions can receive consideration for investments made in funds that serve statewide and regional areas. Such funds can play an important role in serving underserved communities. To add clarity about what is needed before activities outside an assessment area can be considered, the Agencies propose that an activity "may not be conducted in lieu of, or to the detriment of, activities in the institution's assessment areas." We are concerned that this language could be interpreted and applied as a restriction; thus having the unintended effect of discouraging support of statewide and regional investments. Instead, we suggest replacing the current language "adequately addressed the needs" of an assessment area with simply "addressing the needs" of an assessment area. By deleting "adequately," it creates greater flexibility. Such simplified language may better accomplish the goal of encouraging loans and investments in underserved areas while requiring institutions to continue to meet the needs of a bank's assessment area(s). To provide banks with an even greater incentive to participate in such funds, the Agencies should create a "bright line" that will give banks a tangible performance benchmark. Specifically, if a bank has received a "Satisfactory" or "Outstanding" rating on their most recent CRA examination, examiners should deem that sufficient to proactively invest in funds serving a broader statewide or regional area.

Investments In Nationwide Funds

As indicated in CDBA's 2010 testimony, CRA should cover all broad geographies in which a bank does significant business. The principal focus of CRA, however, should be on local credit needs. We support clarifying language facilitating bank support of nationwide funds that can fill credit gaps in underserved communities. We are particularly supportive of efforts to encourage large institutions with relatively small foot prints (e.g. industrial loan companies; wholesale, investment, credit card, or internet based banks) to support a broader range community development investments. Similar to the comments above on state wide or regional funds, we are concerned about the language stating that an activity "may not be conducted in lieu of, or to the detriment of, activities in the institution's assessment areas." We believe that this language could be interpreted and applied as a restriction; thus having the unintended effect of discouraging support of nationwide funds. As suggested in the comments above on state wide or regional funds, adopting a "bright line" benchmark would also provide banks with a greater incentive to support nationwide funds.

Community Services Targeted to Low- and Moderate-Income Individuals

We support language allowing the use of proxies for determining whether certain community service activities benefit low- and moderate-income individuals. The Agencies specifically propose that activities targeted to benefit: (1) schools with a significant portion of the students qualifying for free and reduced lunch per USDA guidelines; and (2) health care organizations with a significant portion of patient qualifying for Medicaid and Medicare benefits, may use these needs-based program qualifications in lieu of actual income data for the purpose of demonstrating low- and moderate-income benefit. We strongly support this change and encourage the agencies to consider expanding the list to include other (e.g. HUD Section 8 vouchers, food stamps, or benefits under either SSI or TANF) types of government needs-based proxies for determining income in the services test. Such changes will significantly reduce paperwork burden for banks and borrowers.

Service on the Board of Directors

The proposed revisions to the Q&A pertaining to Board service are welcome. Board members that are employees of a bank may often have a useful range of experience and expertise beyond advice on "financial matters" to offer. We are pleased that proposed Q&A recognizes this fact and will give CRA for such contributions. We urge, however, the Agencies to broaden their consideration of a bank's contributions to a nonprofit beyond Board service. Such contributions should be recognized if they are part of a substantive commitment on the part of the bank to the overall health and effectiveness of the nonprofit.

Qualified Investments (Proposed New Q&A § __.12(t)-9)

The Agencies should ensure that CRA consideration is given only to the portion of an investment that serves community development purposes. Proposed Q&A __.12(t)(9), however, goes too far. It can be read to limit CRA consideration to only the amount of investment income earned by a recipient community development organization if any

portion of the CRA investment is invested in, for example, Treasury securities. The proposed restriction could have the unintended consequence of precluding full CRA consideration of investments in CDFIs. For example, when a bank makes a qualified investment in a CDFI, the CDFI uses that investment to further its own strategy of making loans and investments for community development purposes, a process that takes time to underwrite and close loans.

To ensure the Q&A does not limit CRA lending to CDFIs, the second sentence of __.12(t)-9 should be amended and an additional sentence included (see changes in ***bold italics***):

*“If an institution invests in (or lends to) an organization that, in turn, invests those funds in instruments that do not have as their primary purpose community development, such as Treasury securities, and **the agreement between the institution and the recipient requires that the recipient use** only the income, or a portion of the income, from those investments to support the organization’s community development purposes, the Agencies will consider only the amount of the investment income used to benefit the organization or activity that has a community development purpose for CRA purposes. **If the agreement between the institution and the recipient requires that the investment be used for community development purposes, then the Agencies will give consideration for the full amount of the investment even if the recipient, in turn, invests the funds and earns income from that investment.**”*

Activities with Minority- and Women-Owned Financial Institutions and Low Income Credit Unions (Resignation of Existing Q&As)

Section 804(b) of CRA allows the Agencies to consider capital investment, loan participation, and other ventures undertaken by an institution in cooperation with minority- and women-owned financial institutions and low-income credit unions as a factor when assessing the CRA performance of non-minority and non-women owned financial institutions (“majority-owned institutions”). We urge the Agencies to give CRA consideration to support provided to all certified CDFIs. We applaud the regulatory agencies for recognizing the important contributions of minority- and women-owned financial institutions and low-income credit unions. We believe, however, that certified CDFIs should be on equal footing as we are engaging in serving the same types of underserved communities and populations. Just like the agency is proposing the use of proxies to establish low- and moderate-income benefit for certain Community Services activities (discussed above), CDFI certification provides a proxy that is as or more effective for identifying institutions focused on mission and serving Low- and Moderate-Income communities.

We thank you for consideration of these recommendations and look forward to working with you to preserve credit availability in distressed communities.

Sincerely,

The Membership of the Community Development Bankers Association

ABC Bank
Albina Community Bank
Broadway Federal Bank
Bank of Kilmichael
BankPlus
Bank2
Carver Federal Savings Bank
Central Bank of Kansas City
City First Bank of D.C.
City National Bank of New Jersey
Community Bank of the Bay
Community Capital Bank of Virginia
First American International Bank
First Eagle Bank
Guaranty Bank & Trust
Illinois Service Federal Savings and Loan
International Bank of Chicago
Metro Bank
Mission Valley Bank
M&F Bank
Native American Bank
Neighborhood National Bank
One PacificCoast Bank
OneUnited Bank
Pan American Bank
Peoples State Bank
Southern Bancorp Bank
START Community Bank
Sunrise Community Banks
United Bank
Urban Partnership Bank