May 17, 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

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

Mr. Robert E. Feldman, Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington DC 20429

Re: Interagency Questions and Answers Regarding Community Reinvestment

Dear Sir or Madam:

The Coalition of Community Development Financial Institutions (The Coalition) appreciates the opportunity to comment on the revised "Interagency Questions and Answers Regarding Community Reinvestment" published in the Federal Register on March 18, 2013. We are encouraged by the Agencies' effort to address and clarify how the CRA applies to an institution's community development activities including community development loans, investments and services.

Community Development Financial Institutions (CDFIs) are community-based, mission-driven financial institutions that specialize in delivering affordable credit, capital, and financial services to residents and businesses in minority and economically distressed communities. The Coalition is the diverse and united voice of CDFIs across the country including CDFI banks, credit unions, loan funds, venture capital funds, and financial intermediaries.

CDFIs emerged in response to the fact that many urban neighborhoods and rural areas, particularly those with high poverty and unemployment rates, are underserved by traditional financial institutions. As community based institutions CDFIs understand and can respond effectively to the needs of their target market and provide the flexible, market-driven products and services that consumers and small business owners need to grow and thrive. CDFIs fill a vital niche in the nation's financial services delivery system by serving communities and market sectors that conventional lenders cannot - with the ultimate goal of bringing CDFI customers into the mainstream economy as bank customers, home owners and/or entrepreneurs. CDFIs also play a vital role in financing the development or redevelopment of neighborhoods by financing retail, grocery and other community services, as well as health care, education and community services.

As a result of the CRA, CDFIs across the country have forged strong partnerships with mainstream banks and thrifts that have helped to establish CDFIs as an integral part of the financial services delivery system. Providing deposits, loans, and

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investments to CDFIs has been a win-win strategy for mainstream banks because it enables the banks to serve borrowers outside a bank's normal customer profile through a responsible CDFI partner. Mainstream banks also provide CDFIs with grants and equity as shareholders. Without CRA, the CDFI industry today would be a fraction of its current size and the scale of its lending and impact correspondingly reduced. This investment by mainstream banks in CDFIs has been consistently successful and, in the case of debt, repaid according to its terms.

We offer the following comments and recommendations on the proposed new and revised Interagency Questions and Answers (Q&As) and we offer some general recommendations intended to strengthen CRA as a tool that can help CDFIs and work to ensure that all communities, particularly low income and underserved areas, have access to credit and capital.

Proposed Revisions to Existing Interagency Q&As on CRA

1. 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 support the effort to clarify the circumstances under which an institution can receive consideration for an investment made in a community development organization or CDFI that serves a statewide and regional area that is larger than, but includes, the institution's assessment area. The Coalition appreciates this effort to recognize the important role that statewide, regional and national CDFIs play in reaching and serving underserved communities.

The current Q&A states that an institution will receive CRA consideration for community development activities in an area that includes but is greater than its assessment area and will benefit individuals and areas not in the institution's assessments area *"if the institution has **adequately** addressed the community development needs of its assessment area(s),"* and the revised Q&A strikes the phrase and inserts language that prohibits an institution from receiving CRA consideration for investments made *" in lieu of, or to the detriment of, activities in the institution's assessment areas."*

Rather than adding new language we recommend striking the word "adequately" from the current Q&A in order to encourage loans and investments in underserved areas while maintaining focus on the needs of a bank's assessment area(s).

2. Investments in Nationwide Funds

The Coalition believes CRA should be applied to all geographies where a financial institution does significant business and the focus of CRA must remain on seeing that all communities within the institution's service area have access to credit and capital. National CDFIs and CDFI intermediaries have a unique ability to address the capital and/or credit gaps in underserved low income communities and we support efforts to facilitate bank lending and investing in these institutions.

As with investments in statewide or regional CDFIs or funds, we are concerned that the language in the proposed Q&A stating that an activity "may not be conducted in lieu of, or to the detriment of, activities in the institution's assessment areas." may have the unintended effect of discouraging support of nationwide funds. We suggest using language similar to what we recommended for institutions investing in statewide or regional funds with consideration given to investments in national CDFIs or nationwide funds *"if the institution has addressed the community development needs of its assessment area(s),"*.

3. 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 signification portion of the students qualifying for free and reduced lunch per USDA guidelines; and (2) health care organizations with a signification 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.

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4. Service on Board of Directors of an Organization Engaged in Community Development Activity

We support the proposed revisions to the Q&A pertaining to board service. 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 credit for such contributions.

Proposed New Interagency Q&As on CRA

5. 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. However, we are concerned that proposed Q&A ____.12(t)(9), goes too far and could have the unintended consequence of precluding full CRA consideration of community development investments made in CDFIs. The draft Q&A would limit CRA consideration to the amount of investment income earned by a recipient community development organization or CDFI if any portion of the CRA investment was then invested in an instrument or fund that did not have community development as its primary mission.

The draft Q&A used Treasury Securities as an example of an instrument without a community development purpose; we would suggest considering a situation where a bank makes a qualified investment in a CDFI, the CDFI uses the investment or a portion of the investments to further its own strategy of making loans and investments for community development purposes, a process that takes time to underwrite and close loans. It is unclear how this transaction would be treated under the proposed Q&A.

To ensure the Q&A does not limit CRA lending to CDFIs, we recommend the proposed Q&A be redrafted as follows (suggested changes to draft proposal 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.***

6. Community Developing Lending in the Lending Test Applicable to Large Institutions

We applaud the Agencies for proposing a new Q&A to clarify that community development lending performance is always a factor that is considered in an institutions lending test rating.

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

Investments and deposits in minority- and women-owned banks and thrifts, and low income credit unions are eligible CRA activities without regard to the geography of the investing institutions. We applaud the regulatory agencies for recognizing the important contributions of these specialized financial institutions and ask that CDFIs be treated the same under the CRA. We believe investment in CDFIs should be identified as a CRA eligible activity because investments in CDFIs will, in turn, expand the capacity of CDFIs to lend to borrowers in low and moderate income areas consistent with the intention of CRA.

Favorable consideration should be afforded to bank investments made to CDFIs even if the CDFI is located in or serves a different assessment area as the investing bank's assessment area. This is also consistent with the treatment of investments and deposits in minority- and women-owned banks. Currently, banks receive minimal CRA consideration for investments in CDFIs outside of their designated assessment area and this treatment dissuades banks from lending to CDFIs that are not located in the market the bank principally serves – leaving entire communities that could benefit from

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affordable business loans, housing financing and community development activity at a disadvantage. CRA responsibilities should no longer be limited to a depository institution's geographic area, but rather be counted so long as the entity in which the investment is made is a certified CDFI. In addition, de-linking the assessment area from the location of the CDFI would allow depository institutions that do not serve a traditional geographic assessment area(s), such as large national wholesale banks or internet-based banks, to participate.

Other CDFI Coalition Recommendations

8. Banks should receive a pro-rata share of CRA credit for their purchase of interest in a loan pool of CDFI originated loans regardless of geographic coverage.

Portfolio liquidity is something CDFIs are working to enhance through loan syndications and secondary market sales, yet efforts to sell securities backed by pools of CDFI originated loans to banks seeking CRA credit has proved challenging. Examiners and regulators to date have been inconsistent with providing proportional treatment of bank investment in loan pools, particularly when a specific loan within a pool is one outside of a particular bank's assessment area. It is often the case that several banks purchase interest in a CDFI loan pool, and this type of community development loan pool often consists of loans made in low and moderate income communities in geographically diverse urban and rural areas, sometimes in different states. CDFI loan pools should be deemed eligible for CRA credit regardless of assessment area so that each bank participating in the loan can receive their pro-rata share of CRA credit for the amount of their investment, not the location of the community where that investment was made.

Similarly, banks that invest, participate in cooperative ventures, or engage in loan participations with a CDFI should receive CRA credit regardless of where the CDFI is located because those activities are integral to community development goals of CRA. The community development test can be strengthened by including these types of investments with CDFIs as eligible for CRA credit.

9. Reward banks that make longer term loans to CDFIs and engage in other innovative activities with high community impact.

Current regulations reward banks for meeting targets, looking at the number and dollar amount of loans, and short-term loans that match the CRA examination cycle are rated more favorably. This timeframe and the terms of the loans in question are not necessarily consistent with the timeframe of the loan capital that CDFIs need to make meaningful investments in distressed communities. CRA should reward banks that provide concessionary pricing, longer term support, or other favorable terms on deposits and investments in and loans to CDFIs.

Similarly, banks that work with CDFIs to develop innovative products and services for low and moderate-income markets should be recognized more explicitly in the evaluation process. While the regulations state that "innovative or complex" activities will receive consideration, implementation of this recognition has not been adequate or consistent from region to region and between the various regulators. For the most part regulators focus on measuring the number and dollar amount of CRA transactions with significantly less attention given to the "innovative or complex" nature of a banks products or services. This focus has the unintended consequence of creating disincentives for mainstream banks to: (1) provide longer term financing, which would reduce liquidity risk and asset-liability management challenges for CDFIs with demand for long term loans, but only short term money to lend; or (2) engage in transactions that are high impact but may take years to put together and involve multiple financing sources.

Thank you for the opportunity to comment of the revised Interagency Q&As and to offer suggestions on how to facilitate and strengthen community development partnerships between banks and CDFIs.

Sincerely,

David Beck
Vice-Chair, Coalition for Community Development Financial Institutions

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