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To: FDIC
Re: RIN 3064-AC97

Comments on Proposed Q & A's

Dear Sirs,

GeoDataVision is a consulting firm specializing in the Community Reinvestment Act and the Home Mortgage Disclosure Act. We advise and provide services to hundreds of community banks around the country and we frequently observe the confusion surrounding those Acts. The proposed Questions & Answers help to clarify a number of nebulous areas under the Community Reinvestment Act. However, they fail to address other areas of widespread confusion and inconsistent practice and simultaneously create new questions. The following are our comments on the proposed Q&A's.

Q&A §__12(h)-3 proposes to offer Intermediate-Small Banks (ISB's) the option to include home mortgages and small business or small farm loans under the community development test providing those mortgages and small business loans have the requisite community development qualifications and those loans cannot also be included in the lending test portion of a CRA performance evaluation.

Question – the language states “a retail institution that is not required to report . . . under HMDA . . .” Does that mean an ISB that reports under HMDA does not have the elective?

Question – an ISB by definition is not required to report under CRA. What if the institution voluntarily reports the data? Does the voluntary filing disqualify the bank from having the option?

Q&A §__12(g)(4)(i)-1 and (ii)-2 and (iii)-3 provide for the “presumption” that an activity will revitalize or stabilize an area “if the activity is consistent with a bona fide government revitalization or stabilization plan.” These sections explicitly include low and moderate-income tracts as well as distressed tracts and disaster area tracts, but do not explicitly include underserved tracts. Will such a presumption apply in the case of underserved tracts?

Q&A §__22(a)(2)-7 states in part, “. . . The origination of a small business or small farm loan that is secured by a one-to-four family residence is not reportable under HMDA unless the purpose of the loan is home purchase or home improvement.” We suggest that it also is reportable under HMDA if the situation involves a dwelling-secured loan (not taken as an abundance of caution) that previously was secured by a dwelling property and the proceeds are used to finance a business purpose.

There are several very confusing areas of CRA that should be clarified by the Agencies but which are not addressed in the proposed Q&A's.

First, a large number of small business loans are made to corporations and the loans are guaranteed by the principals. Frequently these *guarantees* are secured by second mortgages on

dwellings. Under Reg C the Agencies have distinguished this as an *indirect* form of collateral that would disqualify a refinancing from being reported as such, ceteris paribus. In these loan situations, the financing (or refinancing of the line) shouldn't be reported under HMDA (because it is not a HMDA "refinancing" due to the indirect nature of the security or because the proceeds are not used to purchase a dwelling or for home improvement purposes). Does the CRA distinguish collateral used to *secure loan guarantees* as opposed to directly securing the loan? We have asked this question to field examiners and have received conflicting responses. Moreover, if the goal of CRA is to measure how a bank is meeting the need for credit services in its community, why would the Regulation disqualify a very large number of small business loans from being reported? We urge the Agencies to clarify this ambiguous situation. Even the Call Report Instructions say nothing about this.

Second, many small business lines of credit are secured by business assets. Many banks structure those loans with notes callable on demand to avoid the necessity of refilling UCC statements every year. This means that the annual renewal of those lines is not reportable because the tenor of the note has not changed. At the same time, banks who do rewrite the note do report such loans. Moreover, unsecured lines of credit are reported annually when they are renewed. This results in a gross under representation of the volume of small business lending extended by banks thereby giving an inaccurate picture of how banks are "meeting the need for credit services" under CRA. It also effectively means that there are large inconsistencies in the CRA data depending on how a bank technically renews its lines of credit to small business. If a bank does not change the tenor of a note documenting a renewable line of credit but formally notifies the borrower that it has extended the line for another year should it report the renewal of the line? We urge the Agencies to reconsider this situation and to allow the reporting of lines of credit renewed annually even if the tenor of the underlying note is not changed as long as the bank has committed to an extension of the line of credit.

Respectfully submitted,

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