

Community Development Venture Capital Alliance



September 10, 2007

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve
System
20th Street and Constitution Avenue, NW
Washington, DC 20551
RE: Docket No. OP-1290
E-mail: regs.comments@federalreserve.gov

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
RE: RIN 3064-AC97
E-mail: Comments@FDIC.gov

Office of the Comptroller of the Currency
250 E Street, SW
Mail Stop 1-5
Washington, DC 20219
RE: Docket ID OCC-2007-0012
E-mail: regs.comments@occ.treas.gov

Office of Thrift Supervision
Regulation Comments
Chief Counsel's Office
1700 G Street, NW
Washington, DC 20552
Attn: ID OTS-2007-0030
E-mail: regs.comments@ots.treas.gov

RE: Community Reinvestment Act; Interagency Questions and Answers Regarding Community Reinvestment (Docket OP-1290-Federal Reserve; RIN 3064-AC97 (FDIC); Docket ID OCC-2007-0012 (OCC); Docket ID OTS-2007-0030 (OTS))

To Whom It May Concern:

Thank you for providing the Community Development Venture Capital Alliance ("CDVCA") the opportunity to comment on the Community Reinvestment Act ("CRA"); Interagency Questions and Answers Regarding Community Reinvestment (Federal Register, Vol. 72, No. 132 pp. 37922+).

The Community Development Venture Capital Alliance ("CDVCA") is the national trade association of community development venture capital ("CDVC") funds. CDVC funds provide equity capital and accompanying technical assistance to businesses that create jobs and promote economic development in low- and moderate-income areas of the nation and that benefit low-income people by creating good employment opportunities. They invest in communities and in types of businesses that typically do not have access to venture capital from traditional sources. CDVC funds are a type of community development financial institution ("CDFI") and many, but not all, seek and receive certification from the CDFI Fund of the Department of Treasury. The largest group of investors in CDVC funds is banks, followed by foundations, government and other socially-motivated institutions and individuals. Banks that invest in CDVC funds are motivated to do so in large part by the CRA. More than half of the capital invested in community development venture capital funds comes from banks, so banks constitute a vital component of investors in the industry.

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CDVCA will focus its comments on three sections, _____.12(t)—4, _____.12(g)(3)—1 and _____.12(g)—4, of particular importance to the industry of community development venture capital.

CDVCA supports the revisions made to the Interagency Question and Answer (Q&A) under the CRA (§ _____.12(t)—4: *What are examples of qualified investments?*). In particular, we **strongly support the addition of a fourth bullet that clarifies that an investment in a community development venture capital (CDVC) fund is a qualified investment under the CRA.**

CDVCA also **supports the revision made to CRA § _____.12(g)(3)—1 that allows the presumption that an investment in a Rural Business Investments Companies (RBIC) will promote economic development.**

However, we would also like to **propose that New Markets Venture Capital (NMVC) funds be added to the third bullet point under the CRA (§ _____.12(t)—4: *What are examples of qualified investments?*)**. Although NMVCs are included under CRA § _____.12(g)(3)—1 as presumed to promote economic development, as are SBICs and RBICs, they are not included as qualified investments, as those programs are. We believe that this inconsistency could cause confusion and create an unnecessary obstacle for NMVC funds when banks are considering CRA investments. Although it is implied that NMVC funds are qualified, resolving the discrepancy created by including some programs in both sections but including NMVC in only one, would clarify this issue.

CDVCA also **endorses treating CDVCs, NMVCs, and RBICs in the same manner as investments in minority- or women-owned financial institutions and low-income credit unions under the proposed section _____.12(g)—4**. It is important that the CRA recognize the role of minority- and women-owned financial institutions and low-income credit unions in serving the communities in which they are located. However, these minority- and women-owned financial institutions and low-income credit unions are not the only organizations that fulfill this function. In order to best perform their daily work, CDVCs, NMVCs, and RBICs are located directly within and near the communities which they serve. As described above, the stated mission of these funds is to provide community development finance to low- and moderate-income communities or underinvested rural communities, including the communities in which they are located. Given that CDVCs, NMVCs, and RBICs are committed to serving these markets but are not always minority- or women-owned, we believe that investments in these entities should be granted the same treatment under CRA that these similar activities are accorded. Furthermore, using the same rationale, we believe **certified CDFIs should also be treated in the same manner under the proposed section _____.12(g)—4**.

Background for our support and recommendations are as follows:

Community Development Venture Capital Funds

“Community Development Venture Capital Fund” is the generic name for a venture capital fund that has community development purposes consistent with CRA. Banks motivated by CRA are the major investors in CDVC funds. However, CDVC funds in the past have not been specifically named in the Q&A under “*examples of qualified investments.*” This has made it more difficult and time consuming for CDVC funds to obtain CRA-motivated bank financing and may, in some cases, have actually led to the

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denial of investments by banks that were looking for investments that they could easily and safely assume would automatically qualify under CRA pursuant to the Q&A.

This is particularly troublesome, because Small Business Investment Companies (SBICs), which compete for capital with CDVC funds, are specifically named in the Q&A. SBICs do not have community development missions, as CDVC funds do. They are limited by SBA regulations to investing in smaller businesses¹, but do not have any specific requirements to invest in low- or moderate-income communities or to benefit low-income populations. Our members find it ironic that in some ways it would be easier for them to raise capital from CRA-motivated banks if they would simply adopt the SBIC form without a community development mission, rather than the CDVC form, which is dedicated to community development.

The specific naming in the Q&A of CDFIs and RBICs does not substitute for naming CDVCs as well. While it is true that many CDVC funds become certified CDFIs or RBICs, many do not. The RBIC program is competitive, and only one fund has been licensed by the SBA and USDA. The CDFI certification process is more open, but many of our members chose not to apply for CDFI certification, finding the registration process cumbersome and time-consuming. Furthermore, the CDFI Fund is often backlogged in its work, and a number of our funds have found it difficult to receive certification from the Fund in a timely manner.

The fact that there is not a definition of a CDVC fund elsewhere in the law is not an impediment to listing CDVC funds as qualified investments in the Q&A. Community development loan funds and community development credit unions also are not federally defined entities, but they are named in the current Q&A. CDVC funds are analogously a generic type of CDFI that provides community development financing. No venture capital fund would self-identify as a CDVC fund unless it were serious about its community development mission. Many market investors shy away from investing in funds that say they have community development missions because of a perception among some that a community development mission may increase risk and lower returns.

In summary, CDVC funds are important providers of community development finance in low- and moderate-income communities, with missions very much in accord with the purposes of the CRA. While banks motivated by CRA are vital sources of capital for the CDVC industry, many CDVC funds have found it difficult to convince certain banks to make investments because, ironically, it is actually more certain that a bank will receive CRA credit for an investment in an SBIC than in a CDVC fund, because SBICs are specifically named in the Q&A. This must be corrected to provide at least a level playing field for CDVC funds. Like community development loan funds and community development credit unions, CDVC funds should be named specifically in the Q&A. We therefore strongly support the proposed changes in the Q&A to that effect.

New Markets Venture Capital Companies

Congress established the New Markets Venture Capital program, at the urging of CDVCA, to bring much-needed equity financing and accompanying technical assistance to businesses in low- and

¹ While SBICs are limited to investing in smaller businesses by SBA regulations, their average investment size is actually much larger than that of CDVCs. For example, the average investment size of a bank-owned SBIC was \$3.6 million in 1999 (the most recent year for which we have statistics), while the average investment size for a CDVC fund was just over \$250,000 in 2004.

moderate-income communities. The law creating the program describes the purpose of the program as follows:

SEC. 352. PURPOSES.

The purposes of the New Markets Venture Capital Program established under this part are--

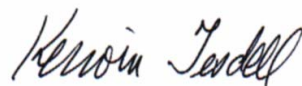
(1) to promote economic development and the creation of wealth and job opportunities in low- or moderate-income geographic areas and among individuals living in such areas by encouraging developmental venture capital investments in smaller enterprises primarily located in such areas.

NMVC funds clearly provide investment capital consistent with the purposes of the CRA and should be included as qualified investment in the Q & A.

Currently there are six active NMVC funds, several of which are leaders in the CDVC field, to which this definition would apply. In addition, legislation has been introduced in both houses of Congress to re-authorize the program. The Senate Small Business Committee has unanimously passed the bill, co-sponsored by Chairman John Kerry and Ranking Member Olympia Snowe. A virtually identical bill was considered last week in a House hearing. We have every reason to expect that the New Markets Venture Capital Program will be reauthorized and that additional NMVC companies will soon be seeking investments from banks.

If you would like further information or clarification, please do not hesitate to contact me at (212) 594-6747 x18 or ktesdell@cdvca.org.

Sincerely,



Kerwin Tesdell
President