PICB | PARTNERS IN COMMUNITY BUILDING, INC.
Building Communities, Enriching and Empowering the Lives of Others
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May 16, 2013

Re: Proposed Changes to Interagency Q&A
OCC: Docket ID OCC02013-0003
Federal Reserve: Docket No. OP-1456
FDIC: Attention: Comments on CRA Interagency Q&A

To whom it may concern,

I am contacting you on behalf of Partners In Community Building, Inc. (PICB)to provide comment on the proposed Interagency Questions and Answers (Q&A) Regarding Community Investment issued March 18, 2013. The revisions to the Q&A make some minor improvements to the implementation of the Community Reinvestment Act (CRA), such as additional ways to determine low- and moderate-income status of community development recipients, recognition of nonprofit board service, and clarifications on qualified investments and community development lending. We are concerned, however, that the proposals miss an opportunity to make necessary reforms to modernize CRA. Specifically:

- The proposed Q&As attempt to clarify the acceptability of community development activities outside of current assessment areas would more effectively promote community investment if assessment areas were redefined as where an institution has significant market share.
- While it is important to uphold the importance community development lending, it should not be done at the expense of retail lending, the largest portion of the lending test. A more effective way of reaffirming community development lending is to create a community development test.
- The proposed Q&As should make the services test more rigorous and meaningful and improve methods of assessing community needs.

CRA regulations have remained nearly unchanged since they were last modernized in 1994. Over the last 16 years, however, the financial landscape has changed significantly, with substantial consolidation of the financial sector, entry of non-bank financial institutions into provision of products and services traditionally offered by banks, and radically different business models for financial services providers. Recognizing the need for CRA modernization, the Federal Deposit Insurance Corporation (FDIC), Federal Reserve Board, Office of the Comptroller of the Currency (OCC), and Office of Thrift Supervision (OTS) held hearings across the country in the summer of 2010 to collect public comments to inform updated CRA regulations. Dozens of community organizations and interested individuals testified at the hearings with practical recommendations that would bring CRA in line with modern banking practices and improve the ability of the regulators to use CRA to engender meaningful community investment.

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Disappointingly, little progress has been made in the three years since the hearings and the proposed changes to the Q&As do not address many of the concerns raised in the public testimony.

About Partners In Community Building, Inc.

PICB is a not-for-profit that incorporated in September of 2002 by a group of individuals from different backgrounds who share a common thread about life and living within communities. On a foundation of mutual respect we work together to improve the lives of seniors, families, and individuals of low to moderate income with excellence in housing, financing and community education. In 2005 we opened our doors for business. To date we have served over 6000 people.

Our belief is that all people should have access to decent, affordable housing in a safe living environment. Our agency services all segments of the population regardless of race, color, religion, national origin, sex, familial status and disability***. PICB's*** housing counseling services enable, inform and encourage clients to make educated and reasonable decisions to achieve their housing and educational goals.

Improvements to guidance on community development lending and services

We strongly support the proposed language on additional ways to determine whether community development recipients are low- and moderate-income. The expanded definition of low- and moderate-income will facilitate necessary investments in services provided to recipients of public benefits programs. In addition, regulators should include participation in the following programs as proxies for LMI status: Temporary Assistance for Needy Families; Women, Infants, and Children; Supplemental Security Income; Head Start; and other means-tested programs.

We support the explicit consideration of nonprofit board service as a technical assistance activity that can be provided to community development organizations. This change would expand valuable expertise available to nonprofits working in community revitalization. Positive consideration of nonprofit board service should only be granted if board members actually participate actively on the board and perform services that benefit low- and moderate-income people.

We also strongly support the new proposed language that addresses the quantitative consideration given to certain types of community development investments. Financial institutions may provide invest or lend to an organization that invests those funds and uses the income, or a portion of the income for community development. Prior to this proposed Q&A, banks may have received CRA credit for the full dollar amount of the funds, even though a small portion were used for community development. Clarifying that banks will only receive positive consideration for only the amount of invested funds used for community development prevents banks from artificially inflating CRA performance.

Finally, we strongly support the proposed new Q&A that clarifies that community development lending is always a factor that is considered in an institution's CRA rating. The OCC previously issued guidance stating that community development lending performance could only have a positive or neutral impact on the lending test assessment. This fails to hold banks accountable for poor or nonexistent practices in lending that primarily benefits low- and moderate-income communities.

We are pleased that regulators explicitly state in the proposed Q&A that "an institution's record of making community development loans may have a positive, neutral, or negative impact on the institution's lending test rating." Poor community development lending products and practices should always be reflected negatively on a CRA exam.

Elevating community development lending and investments

PICB appreciates the desire of the regulators to affirm the importance of community development lending and investments. As stated above, PICB agrees that community development must be accorded a high level of importance, but we have concerns that the language in the proposed Q&As could potentially elevate community development lending at the expense of the retail lending test.

The proposed Q&As propose to change how community development lending is weighted on the CRA lending test. The proposed language states that "strong performance in retail lending may compensate for weak performance in community development lending, and conversely, strong community development lending may compensate for weak retail lending performance." This language must be deleted. Retail lending is the predominant part of the lending test, and it is unlikely that strong performance on community development lending can or should compensate for weak performance on retail lending. The proposed language could have the unintended consequence of decreasing the level of bank retail lending.

A more effective method for affirming the importance of community development lending would be to create a separate community development test. The community development test would incorporate community development lending and investments for all activities that primarily benefit low- and moderate-income communities. The important work of community development lending should be evaluated on its own merits, not as a replacement for retail lending.

Modernizing assessment areas

The intent of current Q&As is to allow community development lending outside of an institutions' assessment areas, as long as community development needs are adequately met within a bank's assessment areas.[1] This can promote community development work in rural or small metro areas where there are a limited number of bank branches. Due to comments from financial institutions indicating confusion around what is meant by "adequately addressing" community development needs within their assessment areas, the proposed Q&As re-state that section to say that community development activities outside of an institution's assessment areas "may not be conducted in lieu of, or to the detriment of, activities in the institution's assessment areas."

This proposed change is an improvement over existing language and may promote increases in lending and investment to rural areas and smaller metropolitan areas. A more substantial overhaul of how banks' assessment areas are defined would promote more effective community development activities in underserved communities.

Currently, CRA regulations require banks to serve low-income communities only where the banks have branches.[2] While this model of assessing geographies where banks have community obligations may have been relevant in the past, it no longer reflects how banks do business today. A growing number of banks primarily conduct their business through the Internet or through a network of brokers. As a result, banks do not have community obligations in areas where they conduct a substantial amount of transactions.

[1] See current Q&As §___.12(h)—6.

[2] "Assessment area delineation." *Federal Register* 12 §228.41 (8 July 2004).

There is evidence that bank behavior is different inside and outside of their assessment areas. Research shows that banks covered by CRA make a higher percentage of high-cost loans when lending outside of their assessment areas than when lending within assessment areas.[3] This suggests that while CRA has been effective at promoting responsible lending to low- and moderate-income communities, significant gaps are created by the antiquated branch-based definition of assessment areas that could affect the economic opportunity of low- and moderate-income consumers.

Updating the definition of CRA assessment areas to ensure that banks are meeting the credit and banking needs of their true market area would be a more effective mechanism for promoting investment in underserved communities than the semantic changes contained in the proposed Interagency Q&As. Assessment areas should be defined as any state, metropolitan area, or rural county where an institution maintains retail offices or is represented by an agent or has at least a 0.5 percent market share in housing-related loans, securities, insurance, or any other financial instrument designated as CRA-eligible for the purposes of establishing an assessment area. Additionally, any changes to community development lending and investment obligations would be strengthened by requiring enhanced data disclosure on these activities.

Improving the services test and surveying community needs

The service test needs to be significantly reformed. Currently, the only quantitative measure in the service test is the number of bank branches in low- and moderate-income communities. The mere existence of a branch in a low- and moderate-income tract does not serve as an adequate proxy for providing services to low- and moderate-income individuals. Regulators must assess data on the individuals accessing bank branches and the services provided to them. Specifically, regulators should examine critical variables such as census tract location, information on account holders, number of new accounts opened, age of accounts, average annual account balances, and percent of bank income generated by fees. Similarly, prepaid cards are increasingly being offered as a checking account alternative, particularly to low- and moderate-income consumers. Data on prepaid card holders, transaction volumes, and fee income should be examined by regulators as well. These data should be made publicly available, similar to the Home Mortgage Disclosure Act, so that the public can identify and hold banks accountable for gaps in access to bank services.

Finally, the goal of the Community Reinvestment Act is to ensure that banks meet the credit and financial services needs of low- and moderate-income communities where they do business. There is no objective measure of what those credit and financial services needs are, however. Regulators should establish an interagency survey of financial services needs and require banks to publicly release their community investment plans. The public would be able to use these two elements to measure whether banks are living up to their community investment goals and the needs of the communities they serve.

Conclusion

Many of the reforms in the proposed Q&A would modestly improve the implementation of CRA, but more comprehensive changes are necessary to assessment areas, community development lending, the services test, and transparent ways of measuring community needs. We urge prompt and comprehensive reform to the CRA regulations.

Sincerely,

Bobbi Ball
Executive Director, Partners In Community Building, Inc.

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[3] *Paying More for the American Dream III: Promoting Responsible Lending to Lower-Income Communities and Communities of Color.* Woodstock Institute et al, 2010. Web.