COMMUNITY REINVESTMENT ACT: INTERAGENCY QUESTIONS AND ANSWERS REGARDING COMMUNITY REINVESTMENT

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My comments are anonymous because I work for a financial institution and might lose my job over some of these comments. As an insider, I see areas where the intent of the Community Reinvestment Act ("CRA") is not followed through on or hurt by the regulations or is circumvented by bank practices.

Q&As § .12(h) - 6 and § .12(h) – 7

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Do the revised Q&As clearly convey the Agencies' intent
that community development activities in the broader statewide or
regional area that includes an institution's assessment area(s) will
receive consideration?

Will this clarification of consideration in the broader
statewide or regional area that includes an institution's assessment
area(s) provide an incentive for banks to increase their community
development activities or expand their opportunities to engage in
community development activities?

Is the proposed definition of ``regional area''
sufficiently clear and appropriately flexible?

Does removal of the portion of current Q&A Sec.  --
--.12(h)-7 that discussed a diffuse potential benefit to an
institution's assessment area(s) alleviate the confusion between the
two Q&As and help to clarify that community development activities in
the broader statewide or regional area that includes an institution's
assessment area(s) will receive consideration?
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The problem in general is that the proposed Q & A tries to use a single set of terms for all community development activities. There needs to be a differentiation between general types of activities.

For example, an investment in a community development organization whose charter and activities cover several counties in a state would benefit from the revised Q&A. These organizations will attempt to provide support where it is most needed in a region.

However, a Low Income Housing Tax Credit fund with specific projects in specific cities and counties will only benefit those cities and counties where the projects are located (this may include projects in an adjoining county when the border of the adjoining county is close, say 10-15 miles or less <u>by road</u>, to the project location). For safety and soundness reasons, banks do not wish to invest in "blind pools" where the properties in a fund are not fully or nearly fully specified. Thus, banks can determine if the projects in a fund will benefit their CRA Assessment Areas.

Banks are currently allowed to specify CRA Assessment Areas that may be very narrowly defined to be specific cities or towns rather than whole counties. For the Lending Test, this definition may be appropriate as the bank may be more familiar with property values in a more narrowly defined CRA Assessment Areas. However, for the Investment Test, for any <u>county</u> in which a bank has a CRA Assessment Area for loans, the whole county should be counted as a CRA Assessment Area for the Investment Test. This would encourage banks to make CRA investments in rural areas of counties.

For example, in California, in Riverside County, some banks specify the borders of their CRA Assessment Area as being around Palm Springs. Thus, they currently have no interest in CRA qualified investments in more rural areas of the county.

Part of the problem of underinvestment in broader statewide or regional areas is that, when making Performance Evaluations, the Agencies give little weight to the Investment Test for larger banks in these "Limited Scope" review areas so the banks don't care about making investments in these areas. If the Agencies want larger banks to make investments in these areas, they need to make at least two policy changes:

1. A bank can get no higher rating for a state on the Investment Test than the lowest rating it gets for <u>any</u> Assessment Area within the state. This would encourage banks to seek out investments in underserved areas.
2. With banks collecting deposits over the Internet, if a bank is collecting deposits from any county in a state, then that county is an Assessment Area for purposes of the Investment Test.

Does ``community development activities being conducted in lieu of, or to the detriment of, activities in the institution's assessment area(s)'' raise the same uncertainty as ``adequately addressed the community development needs of its assessment area(s)''? If so, how can the Agencies better describe the concept that a financial institution cannot ignore legitimate and financially reasonable community development needs and opportunities in its assessment area(s) to engage in community development activities elsewhere in the broader statewide or regional area when those activities will not provide any benefit to its assessment area(s)?

Yes, the new wording still raises uncertainty. The policy changes noted above would eliminate this problem.

Would the proposed revised Q&A assist institutions that deliver products on a nationwide basis to address community needs in areas where they provide products and services?

No, it would not assist them to meet the requirements of the Community Reinvestment Act, which specified that banks should support the communities from which they took deposits. The focus should always be meeting Assessment Area needs, and they should only be given credit a) when the national fund has projects benefiting their Assessment Areas and b) to the extent their investment is specifically allocated to those projects.

When might nationwide funds be appropriate investments for regional or smaller institutions?

When the national fund has projects benefiting their Assessment Areas and to the extent their investment is specifically allocated to those projects.

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Some commenters indicated that current methods of
``earmarking'' investments, including through the use of side letters,
are burdensome. Are such methods, in fact, burdensome and, if so, in
what way?
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Earmarking is only burdensome because it requires banks to invest in their CRA Assessment Areas to get credit for their investments, and that fulfills the goals of the Community Reinvestment Act. This practice is longstanding and is effective to avoid double counting.

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If the proposed revised Q&A is adopted, how should
investments in nationwide funds be considered in an investing
institution's CRA evaluation? Should there be a special category for
investments in nationwide funds? How would such a category affect the
amounts of an institution's investments at the assessment area and/or
statewide levels?
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The proposed revised Q&A should not be adopted because it does not help banks to meet the requirements of the Community Reinvestment Act, which specified that banks should support the communities from which they took deposits. The focus should always be meeting Assessment Area needs, and they should only be given credit a) when the national fund has projects benefiting their Assessment Areas and b) to the extent their investment is specifically earmarked to those projects.

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Alternatively, should investments in nationwide funds be
attributed to particular states or assessment areas? If so, how can
that be done in a meaningful manner, particularly if there is no
earmarking by the fund?
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The only way the projects in a national fund can be attributed to particular states or Assessment Areas is by earmarking. Only earmarking can make it clear that banks are meeting the requirements of the Community Reinvestment Act, which specified that banks should support the communities from which they took deposits. The focus should always be meeting Assessment Area needs, and they should only be given credit a) when the national fund has projects benefiting their Assessment Areas and b) to the extent their investment is specifically earmarked to those projects.

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If nationwide fund investments are attributed to
particular states or assessment areas, how can the Agencies avoid
double counting the same funds in the same assessment areas in
different institutions' evaluations?
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The only way the projects in a national fund can be attributed to particular states or Assessment Areas without double counting is by earmarking. Only earmarking can make it clear that banks are meeting the requirements of the Community Reinvestment Act, which specified that banks should support the communities from which they took deposits. The focus should always be meeting Assessment Area needs, and they should only be given credit a) when the national fund has projects benefiting their Assessment Areas and b) to the extent their investment is specifically earmarked to those projects.

As it stands now, some funds are giving side letters to investors, but they are allocating to investors a greater amount than the amount invested in a project, effectively double counting. And the Agencies are not asking for the proper documentation to avoid this problem. For any fund earmarking projects, the Agencies should require that the fund sponsor provide a letter to each investor showing how much of each project was allocated to each investing institution. And the investing institution must show this letter to the Agency to get credit for the investment.