ASSOCIATION FOR NEIGHBORHOOD AND HOUSING DEVELOPMENT, INC.

May 16, 2013

Re: Proposed Changes to Interagency Q&A

FDIC: Attention: Comments on CRA Interagency Q&A

To Whom It May Concern:

I am writing on behalf of the Association for Neighborhood and Housing Development (ANHD) to comment on the Proposed Changes to Interagency Question and Answer (Q&A). ANHD is a not-for-profit coalition comprised of 94 neighborhood-based affordable housing organizations and CDCs with a 30-year track record of engaging in bank reinvestment advocacy on behalf of New York City's low- and moderate-income (LMI) communities. ANHD is a member of the National Community Reinvestment Coalition (NCRC).

While the proposed changes to the Interagency Q&A document might be modestly helpful, they fall far short of the comprehensive revisions to the CRA regulations needed to keep pace with the changes in the banking industry. In the wake of the predatory equity crisis, the foreclosure crisis, and the slowdown in lending, ANHD believes that the agencies must implement bold and aggressive changes to the CRA regulations in order to increase responsible lending, investing, and services in LMI communities.

First and foremost we are concerned by the proposed Q&A that would alter examination weights on community development lending in the large bank test (Q&A § __.22(b)(4)-2)**.** We are pleased that the changes would establish consistency among all three agencies such that community development lending can have a positive, neutral, or negative impact on the lending test. This should be preserved.

The second change is more problematic, proposing 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*". While strong, quality community development lending deserves credit, it should not substantially raise the rating of a bank that makes loans inequitably to lower-income borrowers and communities or in any way discourage the retail lending that our communities depend upon. The CRA was written to address such unfair lending practices where banks took deposits in lower-income neighborhoods, but refused to make loans there.

We firmly believe that community development lending is vital to supporting neighborhoods and should be recognized and encouraged. There are many ways to do so, but regardless of how it is done, <u>quality must be taken as seriously as quantity</u>. ANHD has long stated that regulators should evaluate the impact of community development lending, which is even more crucial if these loans are to have an increased weight on CRA exams.

In markets like New York City with a large stock of private multifamily housing, we believe that community development lending needs more scrutiny overall. ANHD certainly supports strategies to increase lending and investments for affordable housing, but only if the lending is done responsibly and sustainably. For affordable multifamily housing, banks currently receive community development credit for loans that are determined to serve primarily LMI households, typically if at least 50% of the units are affordable to LMI tenants, although the standards vary among agencies and probably even within agencies.

As we learned from the financial crisis, multifamily loans that are not made responsibly, often due to speculative underwriting or business dealings with bad-actor landlords, put many buildings at risk of financial and physical distress. This has led to the harassment and eviction of lower-rent paying tenants, not only threatening the tenants, but also the stability of the entire community

Under current regulation, and especially under any change in weighting, <u>regulators must take into account the impact of multifamily loans on the stability of the affordable housing stock</u> and not simply the distribution of multifamily loans made in low- and moderate-income census tracts and the quantity of multifamily loans that also qualify as community development loans based on their rent rolls. There are many ways to accomplish this:

1. Request the Debt Service Coverage Ratio for each building, which is a clear and simple expression of the stability of loan underwriting. For example, a Debt Service Coverage Ratio that is below 1.2 suggests that the loan is speculative and possibly based on the expected removal of many of the moderate-rent paying tenants. Such loans deserve particular scrutiny as they could undermine the affordable housing or cause financial pressure that could result in physical deterioration due to neglect of needed repairs.
2. Analyze a sample of loans for other indicators of overleveraging or distress
3. Consult regularly with community organizations and government agencies that specialize in distressed and overleveraged multifamily housing. At ANHD, through persistent on-the-ground tenant organizing by our member organizations and high-level research conducted in-house, we have first-hand knowledge of problem landlords and lenders. Similarly, agencies like HPD and organizations like UNHP have developed databases of buildings showing which are most likely to be in physical or financial distress.

We also believe that better methods can be developed for elevating the importance of community development lending and this must be given further consideration. Either examination weights can be more fully developed on the lending test or community development lending and investing should be considered together on a community development test. A change to a Q&A cannot adequately deal with the complex issue of weighing community development lending and could inadvertently decrease the level of bank retail lending.

The changes proposed to provide favorable CRA consideration for community development financing in the larger state and regional areas could modestly facilitate community development financing in smaller cities and rural communities, but these changes are much less effective than broader changes to banks' assessment areas would be. Currently, assessment areas are only those geographical areas containing bank branches although several banks, especially large banks, make considerable numbers of loans beyond their branch networks through loan officers, brokers, or correspondent lenders. The agencies should designate additional assessment areas for counties and metropolitan areas in which a bank makes sizable numbers of loans but in which the bank does not have branches. This is not difficult to do; the former Office of Thrift Supervision (OTS) assessed performance in geographical areas with high numbers of loans beyond bank branch networks. Expanding assessment areas would be more effective in stimulating increased community development financing and home and small business lending than the semantic changes proposed to the Q&As that, depending on how they are interpreted, could either encourage more development, or perhaps discourage it if a bank is now even more wary to venture outside their assessment area into smaller and rural communities.

In addition, the agencies are missing an opportunity to assess the effectiveness of their proposed changes by not requiring additional data disclosure of community development lending and investing. ANHD has long been trying to assess data on community development lending and investing on a local level – at the county and census tract level. We appreciate the banks that share this with us, but that is not always the case and we cannot get it by any other means. This new disclosure would enable the public to better evaluate the effectiveness of community development lending and investing in their own communities. If county level data was available for community development financing, the agencies and the public at large could also assess how effective any proposed changes to the regulation or Q&As would be in stimulating more community development financing in rural counties and smaller cities while ensuring that the current assessment areas do not experience significant declines in community development financing. The data would either reconfirm any recent changes or would prompt additional changes.

The proposed Q&As do not address the glaring deficiencies of the service test. While bank branches are closing, some large banks are now engaged in abusive payday lending and are not doing enough to make banking affordable and accessible to lower-income residents. A more rigorous service test which assesses data on bank deposits in addition to bank branches in low- and moderate-income communities is urgently needed. The service test could also measure performance on a variety of metrics, such as services offered, the cost of these services, and the income level of the customers themselves. This too requires a larger consideration to ensure banks are equitably meeting the needs of lower-income consumers.

In addition, the existing Q&As regarding foreclosure prevention and loan modifications are not effectively stimulating large-scale foreclosure prevention activities. Reforms to the CRA regulation boosting the importance of foreclosure prevention and servicing must be undertaken. A more effective method would be to evaluate loan modifications under the lending test, given that it requires similar underwriting procedures as standard loans and the impact is even greater.

Still another issue that is not addressed by the proposed changes to the Q&A is loan purchases versus originations. ANHD, along with NCRC, has long asserted that making loans represents a more concerted effort to serve community needs than purchasing loans. While purchasing loans may serve a purpose in some markets, they should be evaluated separately and scrutinized to ensure they are not being done to inflate a CRA rating and make up for low volume and/or poor distribution of originations.

Three years after the summer 2010 hearings in which the agencies received hundreds of comments, ANHD is profoundly disappointed that the agencies are proposing half measures in the form of Q&As while the agencies need to engage in comprehensive reforms regarding assessment areas, the service test, foreclosure prevention, and the consideration of loan purchases on CRA exams. We urge prompt and comprehensive reform to the CRA regulations.

Sincerely,

Benjamin Dulchin
Executive Director
Association for Neighborhood and Housing Development

cc. National Community Reinvestment Coalition
Federal Reserve Board (Docket No. OP-1456)
OCC: Docket ID OCC-2013-0003