May 17, 2013

Re: Proposed Changes to Interagency Q&A

OCC: Docket ID OCC-2013-0003
Federal Reserve: Docket No. OP-1456
FDIC: Attention: Comments on CRA Interagency Q&A

To Whom It May Concern:

Manna, a member of the National Community Reinvestment Coalition (NCRC), acknowledges that the proposed changes to the Interagency Question and Answer (Q&A) document would be modestly helpful but the proposed changes fall far short of the comprehensive revisions to the CRA regulation needed to keep pace with the changes in the banking industry. In the wake of the foreclosure crisis and the slowdown in lending, Manna believes that the agencies must implement bold and aggressive changes to the CRA regulation in order to increase responsible lending, investing, and services in low- and moderate-income communities.The public needs the banking industry to repay a portion of the benefits reaped from the bailouts, and the ongoing lifeline of deposit insurance, through expanding (not contracting) distribution of responsible lending efforts across their entire service area.

As a nonprofit homeownership corporation working with low and moderate income, first-time homebuyers in Washington, DC for over the past 30 years, Manna has witnessed first-hand the need for comprehensive CRA reform. Case in point is NCRC's recent report highlighting lending disparities in DC (see http://www.ncrc.org/media-center/press-releases/item/834-ncrc-analysis-shows-disparities-in-lending-in-washington-dc).

This report bares true to Manna's experience over the last few years, mainly banks pulling back from staffing, resources and marketing related to lower income, first-time homebuyers. It takes much longer to get a lower income buyer to closing now, or longer and longer to get to "no." For example, last year we had a lower-income buyer with a 720 credit score who also had a large amount of downpayment assistance. After a 2-month process with a particular bank, a process that we helped oversee, the buyer was turned down at the last minute. The bank then decided they could do the loan in another division, but that cost the buyer another 4 months. This is one of many stories, which also include receiving rejections for minor credit issues. It's our perception that the lenders blame lower income borrowers for the housing crisis and have pulled back. The lack of outreach and the high scrutiny of low down payment borrowers by banks looks like blaming the victims.

Manna's experience is that low downpayment, lower income buyers with fully documented fixed rate loans and homebuyer education dramatically outperformed average loans both during and after the housing crisis. This is evidenced by our 0% foreclosure rate from 2001-2011. And We believe Manna's experience is not unique, DC's Downpayment assistance program, HPAP, was reported to have 2% foreclosure rates on their book of business, which is a fantastic performance for a subordinate loan program to low wealth, lower income, first-time buyers.

The agencies propose to motivate increased community development lending and investing in smaller cities and rural areas by facilitating lending outside of banks' assessment areas (or geographical areas containing bank branches that are scrutinized by CRA exams). Currently, a bank receives favorable CRA consideration for lending and investing in statewide or regional areas that includes the bank's assessment area(s) provided that the bank is adequately serving the needs of its assessment area(s). The agencies propose to change this to providing favorable CRA consideration for community development financing in the larger areas as long as the financing in the larger areas are not "in lieu of or to the detriment of" financing in the assessment area(s).

These proposed changes would 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 tortured semantic and legalistic changes proposed to the Q&As.

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. For the past several years, NCRC and its members have been advocating for the agencies to publicly provide data on community development lending and investing on a census tract level or at least on a county level. If county level data was available for community development financing, the agencies and the public at large could 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 agencies must also refrain from altering examination weights in their proposed Q&A on community development lending. While it is desirable to affirm the importance of community development lending as the first part of the proposed Q&A does, the second part of the Q&A stating that strong performance in community development lending can compensate for weak performance in retail lending must be deleted. Since retail lending is the predominant part of the lending test, it is unlikely that strong performance on community development lending can or should compensate for weak performance on retail lending.

Better methods can be developed for elevating the importance of community development lending. 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 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. 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. 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.

Still another issue that is not addressed by the proposed changes to the Q&A is loan purchases versus originations. NCRC and its members have commented recently on CRA exams in which banks are making few loans to low- and moderate-income borrowers but purchasing several loans made to these borrowers from other banks. Making loans represents a more concerted effort to serve community needs than purchasing high volumes of loans. Existing Q&As warn banks against purchasing loans to "artificially inflate CRA performance." But since this behavior continues, the Q&A needs to be strengthened by saying that CRA examiners will separately evaluate originations and purchases and will downgrade banks if the purchasing is conducted in a manner to inflate the CRA rating.

Three years after the summer 2010 hearings in which the agencies received hundreds of comments, Manna is 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,

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cc. National Community Reinvestment Coalition