Rebuilding Neighborhoods and Preserving Diversity Through Affordable Housing
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October 22, 2014

Office of the Comptroller of the Currency: Docket ID OCC-2014-0021

Federal Reserve Board: Docket OP-1497

FDIC: Attention Robert E. Feldman, Executive Secretary, CRA comments

To Whom it May Concern:

Manna, Inc., a housing nonprofit development organization based in Washington DC, appreciates the opportunity to comment on proposed changes to the Interagency CRA Question and Answer (Q&A) guidance but urges the agencies to reconsider the proposed revisions to the questions on branches. Manna supports the proposed Q&As regarding alternatives to payday loans, green technologies, and small business financing and job creation. Manna, Inc. also appreciates a proposed Q&A highlighting the importance of community group input on judging the responsiveness of banks to community needs.

As a housing nonprofit providing counseling and housing services directly to clients, Manna understands intimately the value of direct personal contact and meetings with clients to discuss complicated transactions including buying a home and opening a banking account. Manna believes that alternative means of delivering services offered traditionally at branches will not be effective in serving large numbers of low- and moderate-income customers.

The agencies' singular focus on changing the Q&A over the past two years is also misdirected. Profound changes in banking has made the current definition of assessment areas as geographical areas containing branches to be either incomplete or obsolete for a large number of banking institutions. While the agencies maintain this limited definition of assessment areas, banks clamor to deliver more of their community development loans and investments outside of their assessment areas. This is an indirect admission by banks themselves that assessment area definitions are outdated. At the very least, if a bank wants favorable consideration outside of their assessment area for community development financing, they also should be subjected to the lending and services tests outside of their assessment areas, particularly in areas where they issue considerable numbers of loans. Finally, the agencies continue to neglect to effectively deal with the optional treatment of affiliates on CRA exams when they know full well that banks will game the system and exclude affiliates that either engage in predatory activity or do not serve low- and moderate-income populations.

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Manna's responses to specific proposed Q&As are as follows:

Proposed Q&A § __.24(d)-1 and § _.24(d)(3)-1 – Evaluating Branches and Alternative Delivery Systems

Manna opposes the deletion of the wording regarding "primary emphasis" of full service branches when evaluating a bank's performance in delivering retail services. Manna annually counsels hundreds of individuals, either working to improve their credit history or preparing them for homeownership. These low- and moderate-income families are hardworking and want to improve their economic status, but they need in-person assistance in accessing an unfamiliar and complicated financial system. Likewise, bank branches and in-person assistance is needed to help low- and moderate-income people navigate the confusing world of bank products and choose deposit products that are sensible and affordable. Trying to negotiate the plethora of products on the internet or via some other alternative delivery mechanism would be too difficult for significant segments of low- and moderate-income consumers. It would be a disservice to low- and moderate-income consumers for regulatory guidance to downplay the importance of branches in retail service delivery. In fact, there is a real possibility that the ranks of low- and moderate-income unbanked and under-banked individuals would increase should the agencies proceed with this proposed Q&A.

Research conducted by economists at the Federal Reserve of Cleveland suggests that low- and moderate-income borrowers receive more affordable and sustainable home loans with lower default rates as the number of branches increase on a census tract level.[1] In addition, research conducted by the National Community Reinvestment Coalition (NCRC) for the Appalachian Regional Commission shows that banks make more loans to small businesses as the number of branches increase on a county level.[2] The proposed Q&A fails to consider the impacts on safe and sound lending by decreasing emphasis on bank branches.

At the very least, Manna urges the agencies to conduct comprehensive research and publish the results of the research before changing the Q&A on branches. The research would address vital questions such as what is the relationship between branches and access to affordable deposit products and loans. Do banks with more branches in low- and moderate-income communities offer more bank deposit products to low- and moderate-income consumers? In order to facilitate this important research, the agencies should require banks to provide data on the number and dollar amount of deposit accounts by income level of borrowers. Data on adverse actions and the reasons for denial of bank accounts should also be collected. In addition, this data should be used on CRA exams in order to make the service test more robust and rigorous.

[1] O. Emre Ergungor and Stephanie Moulton, *Do Bank Branches Matter Anymore?* via http://www.clevelandfed.org/research/commentary/2011/2011-13.cfm.
[2] Josh Silver and Archana Pradhan, National Community Reinvestment Coalition; and Spencer M. Cowan, Woodstock Institute*, Access to Capital and Credit in Appalachia and the Impact of the Financial Crisis and Recession on Commercial Lending and Finance in the Region*, July 2013 for the Appalachian Regional Commission see http://www.arc.gov/research/researchreportdetails.asp?REPORT_ID=104

The agencies have a disturbing tendency to change the Q&As based on anecdotes and comments from self-interested parties. This Q&A is too important for such regulatory policy making. Rigorous research and public justification based on the research is required before making significant changes.

Proposed Q&A § _.24(d)(3)-1 on examining alternative delivery systems makes data collection by banks on the use of alternative delivery systems optional. We have seen too many CRA exams that simply assert without data that the bank has an effective delivery system and that this factors positively in the rating for the service test. If a bank wants favorable consideration for an alternative delivery system, it is incumbent on the bank to provide the examiner with data on how many low- and moderate-income borrowers obtained deposit accounts and other products from the alternative systems. Moreover, these numbers need to be normalized. For example, while 20,000 consumers obtaining services via an alternative system may sound impressive, it may not be that impressive for a large bank that serves hundreds of thousands of customers. That is why data on the number of low- and moderate-income deposit account holders compared to all account holders for banks is needed in order to conduct rigorous CRA exams.

Manna applauds the inclusion of cost as a consideration for the evaluation of alternative delivery systems. Banks should provide data on the cost of the alternative delivery system and the cost of obtaining products at traditional branches. Collecting this type of data from banks would enable the agencies to possibly construct a database on industry-wide costs that can be used for CRA exams. In addition, the agencies can consult reputable industry sources on bank costs and fees.

Proposed Q&A § __.22 (b)(5)-1 Innovative and Flexible Lending Practices

Manna supports the proposed additions of two specific examples of innovative and flexible lending practices. The first example of a small loan product should encourage banks to offer such products and compete against the fringe financial providers that offer high-cost and abusive payday and other small loans. Encouraging banks to partner with nonprofit community-based institutions is positive since community-based institutions have established trust with community residents that banks may lack. The second example of using alternative credit history is also positive if implemented carefully. The best use of alternative credit history is if the consumer is voluntarily reporting rental, utility, or other payments to the bank or a reputable third party vendor such as a nonprofit community-based organization. On the other hand, if a bank is using a vendor that collects these types of payments in a manner prone to error, the bank should not receive favorable consideration since such practices can impair rather than build up credit.

Proposed Q&A § __.12(g)(3)-1 Community Development and Job Creation

Manna supports the proposal to include workforce development and job training programs for low- and moderate-income persons as examples of community development receiving favorable consideration on CRA exams. Manna operates these types of programs in the construction trades as part of our rehabilitation and development of housing. Further emphasizing these programs will facilitate bank financing for them. Moreover, the clarifications designed to avoid the unintentional practice of considering only low-wage jobs as those for low- and moderate-income people will be beneficial for economic and community development projects.

Proposed Q&A § _.12(h)-1 Community Development Loans and Energy Efficiency

Manna supports the proposal to include financing "green" technology such as renewable energy or energy-efficient equipment for affordable housing benefiting low- and moderate-income families and households. This type of redevelopment promises to contribute to reductions in ozone-depleting pollution and to make the provision of electricity and heating and cooling cheaper for low- and moderate-income homeowners and renters.

Proposed Q&A § _.24 (a)-1 and .24(e)-2 Community Development Services

These new Q&As seek to clarify that community development services are an important aspect of service tests, but they fall short of their objectives since they continue the current confusion between retail and community development services. The Q&As should clearly demarcate the boundaries between retail and community development services. Retail services are deposit accounts – checking and deposit accounts. In contrast, community development services are services like counseling and financial education that "improve access to financial services by low- and moderate-income individuals," as stated in new _.24(a)-1. However, in the preamble to the new Q&A the agencies state that community development services include "low-cost transaction or savings accounts." These are retail services, not community development services.

In order to promote the use of community development services, proposed .24(e) – 2 asserts that qualitative and quantitative factors will be used to evaluate the provision of these services. The guidance on quantitative factors falls short and only mentions that evaluation is "not limited to a single quantitative factor." The guidance should include a few more sentences that the bank must supply data revealing that the community development services are effective. For example, data should be collected on the number of low- and moderate-income individuals attending counseling sessions and data on how many of them improved their credit scores or became mortgage ready. Moreover, banks should receive favorable consideration if they finance data collection systems, performance evaluation, and staffing in nonprofit organizations for collecting this data. The Q&A should explicitly state that financing the collection of quantitative data will receive favorable consideration since this activity is resource intensive but necessary in assessing whether the community development service is effective in assisting low- and moderate-income individuals and families access the financial system.

Proposed Q&A §_.21(a)-3: Responsiveness to Community and Credit Needs

Manna appreciates that the agencies seek to clarify how a bank can demonstrate responsiveness to needs. The proposed Q&A is a good beginning, particularly its inclusion of consideration of comments on CRA exams and information from community leaders and organizations. There are no better resources on information about community needs than information from community leaders and organizations that daily endeavor to increase the provision of banking services, affordable housing, and jobs in their communities.

In addition to proposing this Q&A, Manna encourages the agencies to embark on an interagency project to improve performance context analysis. Manna notes that the San Francisco Federal Reserve Bank has used improved performance context analysis in its exams[3], and Manna also points to the work done by Dr. Chris Brenner in identifying community needs in rural areas and mapping the extent of those needs on a county level.[4] This could serve as a model for mapping needs on an urban or metropolitan level.

Developing clear and concise metrics showing needs can greatly facilitate measurements of responsiveness to needs. For example, unemployment rates on a county and metropolitan level can be used to compare unemployment rates across geographical areas and to provide favorable consideration for banks to finance job creation and economic development projects in areas with high unemployment. Likewise, measures of housing affordability and availability such as cost burdens (percent of income spent on housing) can be used to identify areas in particular need of financing for new homeowner and rental housing for low- and moderate-income populations. These types of metrics can readily be developed from surveys and statistics from federal agencies. Instead, CRA exams seem to consist of uninformative recitations of dense statistics on incomes and other demographic information.

Proposed Q&A §_.21(a)-4 Innovativeness

Manna believes this proposed Q&A can be improved if the Q&A explicitly encourages banks to engage with and work with community-based organizations in developing innovative products that are either new to the institution or to the market. Manna has encountered banks that simply refuse to consider products like low downpayment loans after asking Manna what products would be effective in reaching low- and moderate-income borrowers. Some additional positive encouragement and negative consequences is needed to prod banks to be both more innovative and responsive to community and credit needs.

While it is commendable that the agencies are focusing on service test issues and access to basic banking, the agencies are neglecting their own research into barriers to basic banking. This research should influence the Q&A on what are innovative examples of basic banking services. For example, a report conducted for the FDIC finds that twenty five percent of banks will "automatically" reject applications for opening accounts if ChexSystems has negative

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[3] See the 2013 CRA exam of Silvergate Bank conducted by the Federal Reserve Board of San Francisco http://www.frbsf.org/cra_pes/2013/1216826.pdf. The Federal Reserve Bank uses comparisons among jurisdictions regarding unemployment rates and calculates housing cost burdens for renters in order to assess needs. The exam also reveals community needs identified by "community contacts" and references these identified needs in component tests. For example, in the lending test, the exam discusses whether the bank extended small dollar small business loans in response to a "community contact" indicating a need for these loans.

[4] See http://regionalchange.ucdavis.edu/ourwork/projects/ucd-crc-rabobank-roi for a description of the regional opportunity index and how it helps guides investments qualifying for CRA consideration.

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information about the applicants. At the same time, only one quarter of all banks have an entry-level deposit account for applicants ineligible for conventional accounts.[5] The proposed Q&A on innovativeness should include examples of entry-level accounts with low balance requirements designed for applicants likely to be denied conventional accounts. This is innovative in terms of being new to the market, new to most banks, and highly responsive to needs.

Conclusion

Manna, Inc. asks the agencies to withdraw the proposed Q&As on branching until the agencies have conducted more research on branching in modest income communities and carefully considers this research before proposing any changes. Manna, Inc. supports a number of other Q&As such as those dealing with alternatives to payday loans, green technologies, and community group input on CRA exams.

Manna urges the agencies to stop tinkering around the edges with changes to the Interagency Q&A and instead tackle the large tasks involved in updating assessment areas and the treatment of affiliates. The recent NCRC report, *Small Business Lending Deserts and Oases*, provides a rich resource of how to consider performance context and lending inside and outside of assessment areas.[6] If a bank wants favorable consideration for community development financing outside of its assessment areas, the agencies must also require the bank to address lending to low- and moderate-income communities outside of its assessment areas, particularly in areas where it makes substantial amounts of loans. Moreover, the NCRC report shows counties where small business lending is relatively scarce which should also influence how lending outside of assessment areas is evaluated, with particularly favorable consideration (or more weight) to counties outside of assessment areas where more lending is needed.

Thank you for the opportunity to comment on this important matter. If you have any questions, you can contact me on 202-534-1048 or via jsilver@mannadc.org.

Sincerely,

Josh Silver
Development Manager
Manna, Inc.

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[5] Dove Consulting, Banks' Efforts to Serve the Unbanked and Underbanked for the Federal Deposit Insurance Corporation, Final Report, 2008.

[6] See http://www.ncrc.org/resources/reports-and-research/item/973-ncrc-analysis-small-business-lending-deserts-and-oases