INDEPENDENT COMMUNITY
BANKERS of AMERICA®

Via: Email: regs.comments@occ.treas.gov; regs.comments@federalreserve.gov; comments@fdic.gov

November 10, 2014

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
Mail Stop 9W-11
400 7th Street SW
Washington, DC 20219

Robert deV. Frierson
Secretary
Board of Governors of the
Federal Reserve System
20th St & Constitution Ave NW
Washington, DC 20551

Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: Community Reinvestment Act; Interagency Questions and Answers Regarding Community Reinvestment
Docket ID OCC-2014-0021
Docket No. OP-1497

Dear Sir or Madam:

The Independent Community Bankers of America[1] (ICBA) appreciates the opportunity to comment on the Office of the Comptroller of the Currency's, the Board of Governors of the Federal Reserve System's, and the Federal Deposit Insurance Corporation's (Agencies') proposed rulemaking revisions to the Community Reinvestment Act (CRA) Interagency Questions and Answers (Q&As).

[1]The Independent Community Bankers of America® (ICBA), the nation's voice for more than 6,500 community banks of all sizes and charter types, is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education and high-quality products and services.
ICBA members operate 24,000 locations nationwide, employ 300,000 Americans and hold $1.3 trillion in assets, $1 trillion in deposits and $800 billion in loans to consumers, small businesses and the agricultural community. For more information, visit www.icba.org.

Community Banks and their Commitment to their Communities

Community banks are locally owned and operated institutions that are integral parts of their communities and engage in community reinvestment and community economic development on a daily basis. Community banks provide their communities with deposit, lending and other banking services as well as active involvement in civic activities. The proposed amendments will not result in community banks wavering from their community reinvestment responsibilities. They generally serve only their local communities with deposit, lending and other banking services to their local communities. In addition, local community bankers frequently play a key role in many civic activities.

Community Development

The current CRA regulations define community development to include "activities that promote economic development by financing businesses or farms that meet the size eligibility standards of the Small Business Administration's Development Company or Small Business Investment Company programs or have gross annual revenues of $1 million or less."[2]

The Questions and Answers provide additional guidance on activities that promote economic development by providing that activities promote economic development by financing small businesses or farms if they meet two tests: (i) a size test where the recipient of the activity must meet the size eligibility standards of the Small Business Administration's Development Company (SBDC) or Small Business Investment Company (SBIC) or have gross annual revenues of $1 million or less; and (ii) a purpose test, which is intended to ensure that a financial institution's activities promote economic development consistent with the CRA regulations. Activities meet the purpose test if they support permanent job creation, retention, and/or improvement for persons who are currently low- or moderate- income (LMI), or support permanent job creation, retention, and/or improvement either in low- or moderate-income geographies or in areas targeted for redevelopment by the government.[3]

The Agencies are proposing several revisions to clarify what is meant by "promote economic development" and to better align this Q&A with other guidance regarding consideration for economic development activities undertaken by financial institutions. The Agencies are also proposing to remove the word "currently" from the statement that activities promote economic development if they "support permanent job creation, retention, and/or improvement for persons who are *currently* low- or moderate- income." (emphasis added).

[2] 12 CFR __.12(g)(3)
[3] CRA regulations, Q&A §__.12(g)(3)-1

Furthermore, the Agencies are proposing to additional examples that would demonstrate a purpose of economic development and revise the guidance to add that activities promote economic development if they support: (1) government economic development initiatives that include provisions for creating or improving access by LMI persons to jobs, affordable housing, financial services, or community services; or (2) permanent job creation, retention, and/or improvement through:

(i) Workforce development and/or job or career training programs that target unemployed or LMI persons; or
(ii) The creation or development of small businesses or farms; or
(iii) Technical assistance or supportive services for small businesses or farms, such as shared space, technology, or administrative assistance.

ICBA supports these revisions. Restricting the definition of promoting economic development to job improvement opportunities for only those persons who are currently LMI limits activities that support low wage jobs. It is difficult for community bankers to demonstrate that employees were LMI when hired as this information is frequently unavailable. Therefore, bankers tend to track the number of jobs with wages that are commensurate with low- or moderate-incomes for the area.

We appreciate the Agencies' willingness to provide additional clarification and to encourage financial institutions to engage in activities that promote job improvement opportunities for LMI persons in their communities. We agree with the Agencies' comments that support statistics that show that small businesses are responsible for roughly one-half of all private sector employment and create a significant number of jobs. It is unfortunate that activities by certain banks that provide assistance to start-up businesses may not receive consideration simply because those banks cannot demonstrate that the loans are to - or will create jobs for - persons who are currently LMI until the loans are made with the bank's funds.

This is especially important for community banks since small business lending is the bread and butter of community banking. Community banks drive local economies and create local jobs by providing the lion's share of lending to small businesses. Even though they comprise just 20 percent of banking industry assets, community banks with less than $10 billion in assets make nearly 60 percent of small businesses loans to small businesses (under $1 million) and offer unparalleled local expertise, which allows their small businesses customers to thrive.

By ensuring that regulatory requirements and guidelines are flexible and do not create unnecessary burdens, community banks will be able to continue support their communities and small businesses based on market needs, local opportunities and the banks' strategic strengths. Community banks should not be required to expend resources that do not directly benefit the local community and should be given credit for activities that benefit small and start-up businesses.

Community Development Loans

A community development loan is defined as a loan that has community development as its primary purpose. The examples of community development loans that are provided in the current Q&As do not include loans related to renewable energy or energy-efficient technologies with a community development component. The Agencies are proposing to add an example of such a loan, commonly referred to as a "green" activity, to illustrate how a loan that finances renewable energy or energy-efficient technologies and that also has a community development component may be considered in a financial institution's CRA performance evaluation.

The text of the proposed Q&A revision would state, in part, that an example of a community development loan includes, but is not limited to, loans to borrowers to finance renewable energy or energy-efficient equipment or projects that support the development, rehabilitation, improvement, or maintenance of affordable housing or community facilities, such as a health clinic, even if the benefit to LMI individuals from reduced cost of operations is indirect, such as reduced cost of providing electricity to common areas of an affordable housing development. The rehabilitation and construction of affordable housing or community facilities may include the abatement or remediation of, or other actions to correct environmental hazards, such as lead-based paint, that are present in the housing, facilities, or site.

ICBA supports this additional example and appreciates the clarification. Ensuring credit is given for green activities will further community banks' support of developers of affordable housing.

We appreciate the Agencies' willingness to provide clarification and to encourage financial institutions to engage in community development loans and services and qualified investments in the broader statewide or regional area(s) that include their assessment area(s). The CRA is intended to encourage banks to help meet the credit needs of their communities consistent with the safe and sound operation of their institutions. Agencies are required to encourage banks to help meet the credit needs of the local communities they are chartered to serve and to consider this record in evaluating certain applications.

Responsiveness

The term "responsive" is found throughout the CRA regulations and the Questions and Answers and is generally used to lend a qualitative element to the rating system to assess an institution's responsiveness to credit and community development needs. Generally, the greater an institution's responsiveness to credit and community development needs in its assessment area(s), the higher the CRA rating assigned to that institution. Additionally, existing Q&As explain that examiners should give greater weight to those activities that are most responsive to community needs, including the needs of low- and moderate-income individuals or neighborhoods.

When the Agencies revised their CRA rules to adopt the concept of "intermediate small" institutions and added a community development test for those institutions, one performance factor in the new community development test evaluated the institution's responsiveness through community development activities to community development lending, investment, and service needs.
Because the concept of "responsiveness" utilized in the CRA regulations and Q&As is applicable to all covered institutions, the Agencies are proposing a new Q&A that sets forth general guidance on how examiners evaluate whether a financial institution has been responsive to credit and community development needs. The proposed new Q&A indicates that examiners will look at not only the volume and types of an institution's activities, but also how effective those activities have been. Examiners always evaluate responsiveness in light of an institution's performance context and the proposed Q&A suggests several information sources that may inform examiners' evaluations of performance context and responsiveness.

The proposed Q&A states that activities are considered particularly responsive to community development needs if they benefit low- and moderate-income individuals, low- and moderate-income geographies, designated disaster areas, or distressed or underserved nonmetropolitan middle-income geographies. Examiners may consider information from many sources, including:

- Demographic and other information compiled by local, state, and Federal government entities;
- Public comments received by the Agency, for example, in response to its publication of its planned examination schedule;
- Information from community leaders or organizations; and
- The results of an assessment, prepared by an institution in the normal course of business, of the credit and community development needs in the institution's assessment area(s) and how the institution's activities respond to those needs.

It is important to ensure that regulatory requirements, guidelines and actions by examiners are flexible and do not create unnecessary burdens. Community banks must be able to support their communities based on market needs, local opportunities and the bank's strategic strengths.

Currently, this type of participation only qualifies a bank as a good corporate citizen. Community bank volunteer work at organizations that help low- and moderate- income residents should be considered "responsive" to credit and community development needs.

Many community banks and their employees spend countless hours working to develop affordable housing, revitalize neighborhoods, and enhance the economies of cities and rural communities through organizations such as Habitat for Humanity, food banks, and Meals on Wheels. Community banks support this type of community reinvestment and community development as a means of responding to and addressing community needs. ICBA supports including these activities as d "responsive" as they benefit the community. Performance context should always be carefully considered and applied.

Conclusion

We appreciate the opportunity to comment on the Agencies' proposal on this important topic. Community banks are strongly committed to the goals of the Community Reinvestment Act; community investment and development are at the core of each community bank's mission.

Community banks' primary goal is to ensure their local communities are vibrant and thriving and they are committed to engaging in civic activities, local organizations and meeting the credit and banking needs of their respective communities. Again, the health of a community bank is closely interwoven with the ongoing economic vitality of the local community and its residents.

If you have any questions, please do not hesitate to contact me at 202-659-8111 or Lilly.Thomas@icba.org.

Sincerely,

/s/

Lilly Thomas
Vice President and Regulatory Counsel