

# WNC & ASSOCIATES, INC.

Office of the Comptroller of the Currency  
Federal Reserve System  
Federal Deposit Insurance Corporation  
Office of Thrift Supervision

SENT VIA EMAIL

Re: Community Reinvestment Act; Interagency Questions and Answers Regarding  
Community Investment; Notice

OCC Docket ID:	OCC-2007-0012
FRB Docket No.:	OP-1290
FDIC RIN:	RIN 3064-AC97
OTS Docket ID:	OTS-2007-0030

To Whom It May Concern:

On behalf of WNC & Associates, Inc. (WNC), we thank you for the opportunity to share our views. This public comment letter responds to the notice and request for comments on new and revised Interagency Questions and Answers about community investment as published in the Federal Register of July 11, 2007.

WNC & Associates, Inc. has been actively involved in the provision of affordable housing since 1971, and has been a vanguard in the development of the Community Reinvestment Act (CRA) and the Low Income Housing Tax Credit (LIHTC). WNC has been the industry leader in the use of the Low Income Housing Tax Credit for affordable housing development since before the program's official creation in 1986. Further, WNC was among the first entities to apply for and receive an allocation of New Markets Tax Credits in 2002.

WNC currently has a portfolio of 900 properties in 42 States and the District of Columbia and has a client base of more than 19,000 institutional and individual investors. WNC offers LIHTC equity funds that qualify under CRA's "investment" test. Our funds have never experienced a foreclosure and have met or exceeded investment returns on average. We believe this is a direct result of WNC's knowledge, which is backed by 37 years of experience in this very complicated and specialized investment class.

The Community Reinvestment Act was enacted in 1977 to encourage banks and thrifts to help meet the credit and banking needs of their entire communities, including low- and moderate-income neighborhoods. The CRA applies to federally insured depository institutions, national banks, thrifts, and state-chartered commercial and savings banks.



The CRA and its implementing regulations require federal financial institution regulators to assess the record of each bank and thrift's fulfillment of its obligations to the community. Due to the impetus of CRA, banks and thrifts have made substantial financial commitments to the underserved segments of our local economies and populations. We commend the financial institution regulators for their steadfast dedication to the goals of the CRA and the Americans it is intended to serve.

In order to achieve its full potential, CRA should be applied in a manner that encourages banks to lend and invest in low income communities. However, it has been our experience that recent actions by CRA examiners are in fact discouraging banks from making qualified CRA investments in affordable housing.

Specifically, we would like to respond to Question .23(a)-2 in the revised Interagency Questions and Answers document. The Notice addresses the question of an institution's meeting the geographic requirements of the CRA by benefiting one or more of the institution's assessment areas or through investment in a broader statewide or regional fund that includes the institution's assessment areas.

CRA was established to require banks and thrifts to invest and lend capital to disadvantaged areas in their service areas. CRA permits banks and thrifts to invest in statewide or regional funds that invest or lend to CRA-qualified properties even if such properties do not fall directly within the bank's service area, as long as the funds are restricted to investing or lending in the state or region that includes the bank's service area.

If banks are given less than full CRA credit for their investments in statewide or regional funds, they will have a disincentive to invest. The unintended consequence of a restrictive interpretation of the CRA's geographic investment requirement will be to deprive many areas of the benefits of needed affordable housing that is provided through the Low Income Housing Tax Credit (LIHTC). It would clearly be inconsistent with the goals of CRA. It would have a chilling effect on the usage of our nation's number one affordable housing production program, and further disadvantage our rural areas, which are already underserved by the LIHTC.

WNC has acquired approximately \$1 billion of qualified CRA properties through state funds in California and New York. Investors in these funds include small and midsize national banks seeking to make qualified and sound CRA investments. Many of these banks operate in service areas where affordable housing development either is not feasible due to high costs, or where there exists resistance from community residents. These banks often are not staffed with trained professionals to originate, underwrite and manage these highly complex LIHTC investments; hence they participate in statewide or regional funds. Our state funds typically have 5 to 15 properties throughout the state in order to diversify risk and to reach as many communities as possible.

Banks investing in our state funds, which have an assessment area in the same state, should receive 100 percent CRA credit under the investment test, regardless of where the

properties acquired by the fund are located, as long as the properties are located within the state. However, CRA examiners have been asking for banks to provide an “allocation” letter indicating their investment is targeted only to those properties in the state fund that fall in the bank’s assessment area. While this is common practice in a national investment pool with properties in multiple states, it is not feasible or practical for state and regional funds because such funds are already targeted to specific states. Requiring allocation letters in statewide or regional funds seems contrary to the spirit of the rule that allows such targeted funds. The rule was designed to encourage, not discourage, banks to invest in their state or region.

We provide respectfully the following two specific examples in which financial institution regulators have discouraged investments in statewide or regional CRA funds:

One bank recently made a \$5 million investment in a WNC sponsored state fund. This fund acquired CRA-qualified properties in that bank’s state. The bank regulator unexpectedly informed the investor that it will receive CRA credit for only \$1 million—20 percent of its overall investment—because the state fund invested in properties throughout the bank’s state, including areas outside the bank’s footprint.

A similar example affected a large national bank that was seeking to make a large investment in another of our state funds. The bank withdrew its investment in our state fund due to a similar interpretation by its regulator, and is now actively considering significantly reducing or even not making future investments in affordable housing because of this discouraging experience. This institution has long provided investments in statewide funds in affordable housing.

The guidance contained in the Notice indicates that the regulatory agencies will exercise flexibility in determining whether an institution’s investment meets the geographic requirement. We commend such flexibility. However, we are concerned that the Notice introduces a pro-rata method for allocating the shares of each project for determining whether the institutional investor meets the geographic requirements. Such a method would have the unintended consequence of penalizing, and thereby discouraging, LIHTC investment.

Not giving 100 percent CRA credit for investments in state funds discourages banks from investing in affordable housing. This is because, first, regional and state banks often lack the sophistication to make these investments directly, and, second, in most instances there are few, if any, opportunities to invest in local properties directly or through national funds.

We urge the regulatory agencies to reinforce the longstanding recognition of the community reinvestment value of statewide/regional LIHTC fund investments by financial institutions. Such recognition is consistent with current federal statute and regulation. To do otherwise and to fail to give full credit for statewide or regional investments would ultimately deny many deserving communities the needed benefits of affordable housing that is generated through LIHTC investment by financial institutions.

A strict and arbitrary interpretation of CRA's geographic requirements will only serve to dry up a critical source of funding for much needed affordable housing and community investment. We look forward to continuing to work with you as we seek the national goal of providing decent, safe and affordable housing to all Americans.

Sincerely,

A handwritten signature in black ink, consisting of a series of fluid, connected loops and curves, representing the name Wilfred N. Cooper, Jr.

Wilfred N. Cooper, Jr.  
President  
WNC & Associates