September 10, 2007

Jennifer J. Johnson
Secretary
Board of Governors of the
Federal Reserve System
20th St. and Constitution Ave., NW
Washington, DC 20551
Docket No. OP-1290

Office of the Comptroller of the Currency
250 E Street, SW
Attn: Public Information Rm. Mail Stop 1-5
Washington, DC 20219
Docket ID OCC-2007-0012

Robert E. Feldman
Executive Secretary
Attn: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
RIN No. 3064-AC97

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

Ladies and Gentlemen:

Wells Fargo & Company ("Wells Fargo") is pleased to comment on the joint interagency notice of Interagency Questions and Answers Regarding Community Reinvestment (“Interagency Q&As”). Wells Fargo is a diversified financial services company with $540 billion in assets and 158,000 team members across our 80+ businesses, providing banking, insurance, wealth management and estate planning, investments, mortgage and consumer finance from nearly 6,000 stores, the Internet and other distribution channels across North America and internationally.

We commend the agencies for their continuing efforts to provide staff guidance for CRA compliance and welcome the opportunity to comment on the proposed Interagency Q&As. Our comments stem from a goal to promote increased sustainability for CRA programs in a volatile economy and within a dynamic regulatory and business environment. We believe this goal can best be furthered through greater flexibility in how the CRA exam procedures are applied, particularly where an institution may demonstrate that its investment in a national or regional multi-investor fund meets the geographic requirements of the CRA regulation.

Investments in National or Regional Funds for Community Development Purposes

Our comments relate to the proposed Q&A §____.23(a)-2 (Federal Register, Vol. 72, No. 132, Page 37944), which reads as follows:

> **§____.23(a)-2: In order to receive CRA consideration, should an institution be able to demonstrate that an investment in a national or regional fund with a primary purpose of community development meets the geographic requirements of the CRA regulation by benefiting one or more of the institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s)?**
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> **A.2. Yes. A financial institution should be able to demonstrate that the investment meets the geographic requirements of the CRA regulation, although the agencies will employ appropriate flexibility in this regard. There are several ways to demonstrate that the institution's investment meets the geographic requirements.**
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> **For example, if an institution invests in a new nationwide fund providing foreclosure relief to low-and moderate-income homeowners, written documentation provided by fund managers in connection with the institution's investment indicating that the fund will use its best efforts to invest in a qualifying activity that meets the geographic requirements may be used for these purposes. *("first allocation method")***
>
> **Similarly, a fund may explicitly earmark all projects or investments to its investors and their specific assessment areas. (Note, however, that a financial institution has not demonstrated that the investment meets the geographic requirements of the CRA regulation if the fund "double-counts" investments, by earmarking the same dollars or the same portions of projects or investments in a particular geography to more than one investor.) *("second allocation method")***
>
> **In addition, if a fund does not earmark projects or investments to individual institution investors, an allocation method may be used that recognizes that each investor institution has an undivided interest in all projects in a fund; thus each investor institution may claim its pro rata share of each project that meets the geographic requirements of that institution. *("third allocation method")***
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> **If, however, a fund does not become involved in a community development activity that meets both the purpose and the geographic requirements of the regulation for the institution, the institution's investment generally would not be considered under the investment or community development tests.**

Currently, multi-investor national or regional funds are an efficient and prudent way to move capital into distressed and underserved markets, and they are the investment vehicle through which a significant majority of community development capital is funded. Wells Fargo believes that due to the unique circumstances inherent in equity investments in multi-investor national or regional funds, a more flexible rule for garnering CRA credit is not only appropriate, but necessary to encourage continued investment in these funds. Such unique circumstances include institutions investing in the fund before all of the underlying projects have been identified and/or acquired, institutions investing at different times (staged closings), and institutions with overlapping assessment areas investing in the same fund.

Although Q&A §____.23(a)-2 offers three alternative methods for allocating CRA credit in multi-investor national or regional funds, Wells Fargo advocates strongly for the agencies' adoption of just the first allocation method as it provides the most flexibility to obtain CRA credit for financial institutions which will encourage these institutions to provide more capital for CRA-qualified investments as well as ensure that these funds are directed to the more distressed and underserved markets, including rural and non-metropolitan markets. It should be sufficient for a fund manager to provide written documentation that it will use its best efforts to invest within an institution's specified assessment area(s). Otherwise there will be a strong disincentive for institutions to invest in funds whose underlying projects are not fully specified at closing because if the institution cannot be assured that its investment in the fund will receive total or almost total CRA credit or weight, it will either (i) not invest in that fund, potentially resulting in the fund having fewer dollars to invest in community development, or (ii) postpone investment in that fund until the fund has identified enough investments within the institution's assessment area(s) to generate enough CRA credit to cover the investments of that institution.

Wells Fargo also objects to the second allocation method which allows the fund "to earmark all projects or investments to its investors and their respective assessment areas," oftentimes in the form of side letters. Under this scenario, a situation may result where the fund allocates CRA credit on a first-come-first-served basis which would be a significant disincentive for subsequent investors to invest in the fund if they have assessment areas that overlap with those of the prior investors. Similarly, if a fund allocates CRA credit to its largest investors, there will be a significant disincentive for medium and small investors to invest in the fund if they have assessment areas that overlap with those of the larger investors. In either case, if several investors do not invest in a fund for this reason, the fund may not be able to raise enough capital to achieve optimal economies of scale.

In addition, most large investors are the top financial institutions in the country which have primary assessment areas in the larger metropolitan markets. As such, there is likely to be more demand/competition for projects in the larger metropolitan markets and little or no demand for projects in smaller and/or rural underserved markets. A fund whose focus is on allocating CRA credits to its investors could lose its mission focus and be more likely to pass on a viable investment that is not within any of its investors' assessment areas. As a result, a project that meets an urgent community development need but is not located within any of the fund investors' assessment areas (particularly likely to be the smaller and/or rural underserved markets) may never be capitalized. Further, this practice will reduce the fund's geographic diversity, thereby making the fund more vulnerable to a financial downturn in one of its geographic areas and less likely to find enough viable investments to fulfill its mission.

Finally, Wells Fargo objects to the adoption of the third allocation method where each institution is allocated its pro rata share of CRA credit for each project in the fund. Under this allocation method, if the fund invests in project(s) that are completely outside of an investing institution's assessment area(s) or broader regional or statewide area, that institution will be allocated CRA credit that it cannot use. This will dissuade CRA-motivated institutions from investing in any fund that invests in projects outside of its assessment area(s) or broader regional or statewide area, resulting in smaller funds which lack geographic diversity, funds that are not capitalized enough to achieve optimal economies of scale, and fewer dollars being invested in community development.

In conclusion, given the critical role that CRA-qualified equity investments in multi-investor national or regional funds play in meeting the credit needs of communities, Wells Fargo advocates as flexible a rule as possible for complying with the geographic requirements of the CRA and garnering CRA credit for financial institutions.

Wells Fargo appreciates the opportunity to outline our concerns regarding the proposed Q&A §____.23(a)-2 as stated above. We believe that the agencies should adopt just the first allocation method for meeting the geographic requirements of the CRA. For the reasons stated above, Wells Fargo does not believe that the second or third allocation methods are viable alternatives, nor do we believe that the decision on how CRA credit will be allocated should be left to a fund manager's discretion.

Changes to Current Definition of Community Development Lending

We think that the agencies should give full consideration for letters of credit or other credit enhancements that have a community development purpose as they are legally binding financial commitments that can support a bank's CRA program. Currently these may be provided to examiners as examples of "other community development lending." However, it is difficult for banks to be certain of how much consideration they will receive for this activity since such community development-purpose letters of credit are prohibited from being reported in the annual filing of community development loans. Such transactions are also excluded from Performance Evaluation tables that outline the community development loans considered during the exam period for a given financial institution. We think this does not give appropriate weight to these transactions, which may benefit communities as much as conventional loans in some cases, nor recognizes the legal and financial impact of letters of credit.

We also recommend that full lending and/or investment CRA credit be given for activities that enable community development, such as mixed-income projects that have an affordable housing component.

Conclusion

Once again, we commend the agencies for their continuing efforts to provide staff guidance for CRA compliance and concur with several of the revisions to the interagency questions and answers regarding community reinvestment, including CRA consideration for SBA 504 loans over $1 million and investments in community development venture capital companies that finance small businesses. Wells Fargo appreciates the opportunity to outline our reservations concerning the proposed questions and answers regarding CRA consideration for investment in a national or regional multi-investor fund as stated above as well as provide additional recommendations to enhance the CRA regulation. We believe that these recommendations could be implemented within the scope of the current CRA Exam Procedures with minimal burden but maximum benefit for financial institutions and community organizations to continue to develop and participate in sustainable CRA programs for years to come.

Sincerely,

Robert M. Manuel
Senior Vice President
Wells Fargo Bank, N.A.