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

May 23, 2013

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. and 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
Docket ID OCC-2013-0003
Docket No. OP-1456
FR Doc. 2013-06075

Dear Sir or Madam:

The Independent Community Bankers of America¹ (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) notice of proposed rulemaking seeking comment on revisions to their Community Reinvestment Act (CRA) Interagency

¹The Independent Community Bankers of America®, the nation's voice for more than 7,000 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. With nearly 5,000 members, representing more than 24,000 locations nationwide and employing 300,000 Americans, ICBA members hold \$1.2 trillion in assets, \$1 trillion in deposits, and \$750 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

Questions and Answers (Q&As) regarding community reinvestment addressing several community development issues.

The Agencies are proposing to revise questions and answers which address additional ways to determine whether recipients of community services are low- or moderate-income as well as providing a community development service by serving on the board of directors of a community development organization. Additionally, the proposed questions and answers address community development activities outside institutions' assessment areas, both in the broader statewide or regional area and in nationwide funds.

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 development on a daily basis and rely on vibrant communities to thrive. The proposed amendment 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 Services Targeted to Low- or Moderate-Income Individuals

Providing community services targeted to low- or moderate-income individuals is one prong of the definition of "community development." Currently, Q&A §__.12(g)(2)-1 provides guidance and includes examples of ways that an institution could demonstrate that community services are offered to low- or moderate-income individuals. Current examples include: the community service is offered by a nonprofit organization that is located in and serves a low- or moderate-income geography; or, the community service is targeted to the clients of a nonprofit organization that has a defined mission of serving low- and moderate-income persons.

The agencies are proposing to revise Q&A §__.12(g)(2)-1 to include two additional ways in which an institution could demonstrate that community services are provided to low- or moderate-income individuals.

- The community service is provided to students or their families from a school at which the majority of students qualify for free or reduced-priced meals under the U.S. Department of Agriculture (USDA) National School Lunch Program.
- The community service is targeted to individuals who receive or are eligible to receive Medicaid.

ICBA supports the additional examples as ways in which financial institutions could demonstrate the provision of community services to low- and moderate-income individuals. We agree that the Federal income poverty guidelines, which

are used for the USDA's eligibility guidelines for free and reduced-price meals, are generally less than or very similar to the median family incomes that are used under the CRA regulations. Similarly, Medicaid eligibility income levels in most cases are less than or similar to the income levels considered low- or moderate-income under the CRA regulations.

ICBA suggests that the Agencies also include individuals who receive or are eligible to participate in the Department of Housing and Urban Development's (HUD's) assisted housing programs as another simple easily-applied means of demonstrating the provision of community services to low- and moderate-income individuals. These assisted housing programs include the Section 8 Housing Choice Voucher program, Section 202 housing for the elderly program, Section 811 housing for persons with disabilities and the Section 236 rental program. Similar to the USDA's and Medicaid's income limit requirements for eligibility, the median income determined by HUD is approximately the same as the median income determined by the Federal Financial Institutions Examination Council (FFIEC).

Community banks invest a significant amount of employee time into implementation of CRA requirements. Revising the Q&A to include the proposed situations, as well as services targeted to individuals eligible for HUD housing assistance programs, will greatly facilitate banks' ability to demonstrate that an activity benefits low- or moderate-income individuals and reduce compliance burden.

Community Development Activities Outside an Institution's Assessment Area(s)

The CRA regulations allow consideration of community development loans, qualified investments, and community development services that benefit an institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area.

Current Q&A §___.12(h)-6 states that generally there does not need to be an immediate or direct benefit to the institution's assessment area(s) to satisfy the regulation's requirement that these types of activities benefit an institution's assessment area(s) or broader area that includes the institution's area. Although the activities of the organization or fund may not always directly benefit the institution's assessment area(s), the Agencies believe that, at some point, the institution's assessment area(s) may receive some benefit and for this reason such activities will receive consideration.

Additionally, the current Q&A states that, if an institution has, "considering its performance context, adequately addressed the community development needs of its assessment area(s)," it will also receive consideration for those activities, even if those activities will not benefit the institution's assessment area(s). Because of the lack of clarity in the phrase, "adequately addressed the community development needs of its assessment area(s)," the Agencies are

proposing to remove the phrase and instead state that community development activities located in the broader statewide or regional area that includes an institution's assessment area(s) but that will not benefit those assessment area(s) "must be performed in a safe and sound manner, consistent with the institution's capacity to oversee those activities and may not be conducted in lieu of, or to the detriment of, activities in the institution's assessment area(s)."

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.

It is important to ensure that regulatory requirements and guidelines 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 banks' strategic strengths. Community banks should not be required to expend resources that do not directly benefit the local community but should be given credit for activities that include benefits to those outside of the local assessment area. Moreover, it is incumbent upon examiners to take appropriate steps to ensure institutions with national footprints do not use this clarification to circumvent serving the needs of communities in which they do business.

Service on the Board of Directors of an Organization Engaged in Community Development Activities

Currently, Q&A §__.12(i)-3 states that providing technical assistance to organizations that engage in community development activities is considered a community development service. Previously, the Agencies have stated that "service on the board of directors of an organization that promotes credit availability or affordable housing meets the criterion that a community development service must be related to the provision of financial services. Service by financial institution personnel on the board of directors of an organization engaged in community development activities should consistently receive consideration as a community development service. To clarify this point, the Agencies propose to modify Q&A §__.12(i)-3 to include service on the board of directors as an explicit example of a technical assistance activity that can be provided to community development organizations and that would receive consideration as a community development service.

ICBA fully supports this amendment and appreciates that clarification. Local community bankers frequently play a key role in many civic activities, such as serving on a development corporation board, hospital board, chamber of

commerce or school board. This type of participation benefits the communities in which local bankers live and work and should be given proper CRA credit.

Additionally, ICBA believes volunteer work at organizations that help low- and moderate- income residents by community banks and their employees should also be given appropriate credit. 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. ICBA supports this type of community reinvestment and community development as a means of addressing these needs and believes it should be given proper CRA credit.

Investments in Nationwide Funds

An institution helping to meet the credit needs of its assessment area(s) through qualified investments that benefit an institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s) may provide documentation from a nationwide fund to demonstrate the geographic benefit to its assessment area(s) or the broader statewide or regional area that includes its assessment area(s). Agencies will accept any information provided by an institution that reasonably demonstrates that the purpose, mandate, or function of a nationwide fund includes serving geographies or individuals located within an institution's assessment area(s) or broader area that includes its assessment area(s).

Typically, information about where a fund's investments are expected to be made or targeted will be found in the fund's prospectus, or other documents provided by the fund, and the institution, at its option, may provide such documentation in connection with its CRA evaluation. At the institution's option, 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 institution's geographic requirements also may be used for these purposes. Similarly, at the institution's option, information that a fund has explicitly earmarked its projects or investments to its investors and their specific assessment area(s) or broader statewide or regional areas that include the assessment area(s) also may be used for these purposes.

The Agencies are proposing to revise the Q&A to no longer suggest that written documentation by the fund demonstrating earmarking, side letters, or pro-rata allocations may be provided at an institution's option. While few community banks use this type of investment vehicle to satisfy their CRA requirements, ICBA believes that it is fully appropriate to maintain this as an option. It facilitates investments where there may be a lack of appropriate opportunities in the bank's immediate assessment area and it helps the bank diversify its investment portfolio. Keeping this option available and encouraging banks to consider it

offers additional avenues for banks to reach out to help local communities, which is the hallmark of the nation's community banks.

Conclusion

Thank you for the opportunity to comment. If you need any additional information or have any questions, please contact me at Lilly.Thomas@icba.org or at 202-659-8111.

Sincerely,

/s/

Lilly Thomas
Vice President and Regulatory Counsel