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September 10, 2007

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

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

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Attention: RIN number 3064-AC97

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Attention: ID OTS-2007-0030

Re: Community Reinvestment Act – Interagency Questions and Answers

Dear Sir or Madam:

The Independent Community Bankers of America (ICBA)¹ appreciates the opportunity to comment on the interagency proposal to update the guidance used by banks and others for complying with the rules that implement the Community Reinvestment Act (CRA). The CRA rules are interpreted primarily through the *Interagency Questions and Answers Regarding Community Reinvestment* which provides guidance for use by agency personnel, financial institutions and the public.

¹ The Independent Community Bankers of America represents 5,000 community banks of all sizes and charter types throughout the United States and is dedicated exclusively to representing the interests of the community banking industry and the communities and customers we serve. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever-changing marketplace.

With nearly 5,000 members, representing more than 18,000 locations nationwide and employing over 268,000 Americans, ICBA members hold more than \$908 billion in assets, \$726 billion in deposits, and more than \$619 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve, the Federal Deposit Insurance Corporation (FDIC) and the Office of Thrift Supervision (OTS) (“the agencies”) propose to update the existing interagency CRA questions-and-answers. The proposed revisions would combine past guidance, add new guidelines for “intermediate small savings associations” to reflect changes to OTS’ rules, make several technical changes, and add nine new Q&As. Overall, the changes, some technical and some substantive, are designed to reflect changes to the rules since updates were last published. For example, new guidelines would be issued on bank investments in minority- or women-owned financial institutions, community development activities and CRA credit for helping homeowners facing foreclosure.

Finally, to help readers, the agencies also plan to issue an index by topic when the final rules are put into place. ICBA welcomes the addition of an index since it will help community banks locate appropriate information and make the Q&A easier to navigate. ICBA also suggests the agencies consider adding a table of contents.

Overview of ICBA Comments

Generally, ICBA supports the proposed changes. Overall, the changes will help clarify the application of the rules and facilitate compliance. However, ICBA also recommends several adjustments to the final guidance, as more fully detailed below. For example, while we support the ability of community banks to support minority- and women-owned institutions outside their investment areas, we encourage the agencies to stress that priority should still be given to activities that benefit the bank’s own assessment area.

We support the expanded list of activities that benefit community development, such as the Small Business Administration 504 program. ICBA encourages the agencies to continually publish the existence of such programs to banks they supervise along with the fact that favorable CRA credit is available and how banks can participate in these programs. ICBA also encourages the agencies to continue to evaluate and publish additional programs as they become available.

Since many community banks rely on participating with other financial institutions in lending programs, ICBA welcomes opportunities for participations that will grant CRA credit. However, we urge the agencies to take a consistent approach and only count the amount outstanding actually on a bank’s ledger when a bank purchases a loan participation. While the origination amount may need to be considered for classification purposes, only the actual balance should be considered for CRA evaluation.

ICBA supports the option that allows community banks to invest in pooled funds of investments or loans and still receive CRA credit. However, we also encourage the agencies to carefully evaluate how these funds are treated. Allowing some banks to segregate portions of the pooled fund under “side letters” undermines the purpose and goal for creating these funds in the first place.

Finally, ICBA strongly supports efforts to encourage banks to work with borrowers facing foreclosure in the current real estate markets. While community banks

generally do not engage in the practices that have created the problems facing many communities across the United States as foreclosure rates rise, the nation's community banks are well-capitalized and ready to be part of the solution to the problem.

New Questions and Answers

1. Investment in Minority- or Women-Owned Financial Institutions and Low income Credit Unions. The CRA statute allows the agencies to consider a capital investment, loan participation, and other ventures of a bank or thrift that are carried out in cooperation with a minority- or women-owned financial institution or low-income credit union as long as the activity helps meet the credit needs of the local community where the latter institution is chartered.

Generally, the CRA performance of a bank or thrift is evaluated based on its activities in its own assessment area or a broader statewide or regional area that includes its assessment area. The proposal would clarify that the institution making the investment or purchasing the loan participation (the majority-owned institution) would receive favorable CRA consideration even if the minority- or women-owned financial institution or low-income credit union is not located in or the activities do not benefit the majority-owned institution's assessment area. In other words, an activity or transaction by a bank or thrift with a minority-owned financial institution, a women-owned financial institution or a low-income credit union – no matter where the latter is located – will receive favorable CRA consideration (provided, of course, that the activities help meet the credit needs of the local community where the minority- or women-owned institution or low-income credit union is chartered).

ICBA Position. ICBA supports the clarification since the proposed new Q&A will be helpful. Banks in small communities will find this especially useful since opportunities for investment or transactions with minority or women-owned financial institutions may not be available within the bank's own assessment area. This type of guidance would have been especially useful in the immediate aftermath of Hurricanes Katrina and Rita, and ICBA believes that this guidance will definitely be beneficial going forward. However, ICBA also recommends that the agencies provide examples in the final guidance to help outline what is meant by "other transactions" and "ventures."

ICBA believes the final rule also should stress that any investments or transactions with minority-owned or women-owned financial institutions outside the bank's assessment area should only be conducted if they can be done in a safe-and-sound manner and not to the detriment of activities in the bank's own assessment area, especially where there are ample opportunities for community development activities locally. In other words, while ICBA fully supports this guidance, there needs to be a careful balancing so that a bank does not receive CRA credit for investing outside its assessment area when opportunities for local investment are readily available.

ICBA also urges the agencies to continue evaluating other instances where it might be appropriate to grant CRA credit for investments and other activities outside the bank's own assessment area or larger region that includes that assessment area. With the

growing use of Internet and call center activities, and the expanding reach allowed by new and evolving technologies, banks are finding it increasingly simple to reach markets outside their immediate assessment areas. While an institution's primary focus is often geographically aligned with its branch network, restricting CRA qualified activities to those geographies may unduly limit community outreach opportunities. For example, given the current situation in mortgage markets, some banks that have developed appropriate solutions for disadvantaged borrowers might be encouraged to reach beyond their immediate assessment area to expand that assistance. Given current restrictions under CRA, that is less likely. While some limitations are appropriate, added flexibility would be helpful.

Finally, to help community banks identify qualified minority- and women-owned institutions, ICBA believes it would be helpful if the agencies, possibly on the FFIEC website, identified institutions that qualify for this type of activity. That will avoid any questions and will help community banks locate opportunities. Without such assistance, it might be difficult for community banks – especially smaller institutions with limited resources – to reach out to these institutions.

2. Intermediate small institutions' affordable home mortgage loans and small business and small farm loans. Intermediate small institutions are not required to collect data on small business or small farm loans. Moreover, some of these institutions may not have to collect information under HMDA. The proposal would allow banks evaluated under the intermediate small institution test to have such loans evaluated as community development loans (as long as the loans meet the regulatory requirements for "community development") OR as small business, small farm or residential mortgage loans (as applicable). The bank would notify the examiner about its choice before the beginning of a CRA exam.

ICBA Position. ICBA believes that this clarification is helpful since it offers additional flexibility for intermediate small banks. ICBA also finds that allowing this type of flexibility useful for CRA evaluations. However, ICBA recommends that the final guidance clarify whether the classification of a loan is limited to the time the loan originates or whether it can be changed during the life of the loan. ICBA also recommends that the final guidance clarify whether a bank must adopt a single classification for all loans within the bank's loan portfolio or whether it can categorize individual loans within its portfolio differently. And finally, it would be helpful if the final guidance specifies whether this classification has any impact on a bank's commercial real estate (CRE) classification.

3. Examples of "other loan data." The CRA rules state that loan originations, purchases and "other loan data" the bank may provide will be considered as part of the CRA evaluation. The agencies are proposing a new Q&A that lists in one place the various activities that may be provided to examiners as "other loan data." As proposed, the list of "other loan data" would be:

- loan consolidations
- loans funded for sale to the secondary market not reported under HMDA

- unfunded loan commitments and letters of credit
- commercial and consumer leases
- loans secured by non-farm residential real estate (not taken as an abundance of caution) used to finance small business or small farm loans that are not reported as small business or small farm loans or under HMDA
- loans that are not primarily for community development but where a certain amount is set aside for affordable housing
- an increase to a line of credit that causes a small business or small farm loan to exceed the threshold for reporting (\$1,000,000 for a small business loan or \$500,000 for a small farm loan)

ICBA Position. ICBA finds it helpful to consolidate in one place all the various activities that might be considered under “other loan data.” Specific examples are always helpful, and the list will both make it easier to understand what is meant and also make it easier to locate the examples by consolidating them in one place. Generally, ICBA finds the list of examples helpful.² However, ICBA recommends that the final guidance clearly articulate that the list is not exclusive but illustrative.

4. Purchased Loan Participations. The proposal would clarify that a loan participation is treated as the purchase of a loan. The bank would only report the portion of the loan that it purchases, unless the loan is a small business or small farm loan. If the bank purchases a small business or small farm loan in whole or in part, then following the instructions on the call report or the TFR (thrift financial institution report), the bank reports the amount at origination (Question 42(a)(2)-1).

ICBA Position. ICBA believes that this guidance is helpful and that it is appropriate that a bank would only report the amount of the loan actually purchased. The proposal is reasonable, provides clarification and makes it simpler to understand. The guidance will also ensure consistent treatment by both bankers and examiners.

However, ICBA is concerned that the exception for reporting loan participations involving small business or small farm loans, where the bank would report the amount of the loan originated, might cause confusion. Applying a different treatment through the exception also increases the potential for error. While ICBA appreciates the different classification for call report analysis, ICBA believes that it might be cleaner, less confusing and easier for CRA compliance to treat all loans similarly.

While it is important to track the amount of the loan at origination for classification purposes and to ascertain whether it meets the necessary thresholds to actually be a small farm or small business loan, for CRA purposes the amount purchased

² ICBA recognizes that the thresholds for small business and small farm loans are set to coordinate with other rules. However, given the expenses associated with small farm loans, including the price of land, equipment and so forth, the agencies consider taking whatever steps are needed to increase the threshold from \$500,000 to \$1,000,000. A uniform threshold would simplify compliance while increasing the threshold for small farm loans would better reflect current realities.

should be all that counts. Therefore, the final rule should provide that for CRA analysis where there is a loan participation the bank only reports the part that it purchases.

If the bank originates the loan, then additional credit should be granted for the effort needed to put together the original loan package. On the other hand, if a bank only purchases a portion of the original loan, the purchased amount should be the only amount reported for CRA purposes.

5. Small Business Loan Secured by a One-to-Four Family Residence. There are instances when a one-to-four family residence may be taken as collateral in connection with a small business or small farm loan. If the collateral is taken in an abundance of caution and the terms of the loan are not more favorable due to the lien, the loan should be reported as a small business or small farm loan. However, as a result of changes under the requirement for reporting refinancings under HMDA, that same loan may also be reported under HMDA. While the agencies recognize this is one occasion where reporting the loan as a small business or small farm loan and under HMDA may lead to double counting of the same loan for CRA, they do not believe such double counting will be significant, especially since the loan would be reported under HMDA only if the purpose of the loan is home purchase or home improvement.

ICBA Position. ICBA does not believe that this interpretation will present a problem and agrees that the number of loans affected is likely to be minimal. ICBA does recommend, though, that the final guidance include a reminder that a refinance of a business loan that includes the business owner's home should be reported on the bank's HMDA-LAR and that, while it may be counted for both HMDA and CRA purposes, that will not cause the bank to be non-compliant with either rule. ICBA also urges the agencies to include this guidance in the guidance for HMDA reporting so that both rules are consistent.

6. Investment in a National or Regional Fund. If a bank makes a loan or investment in a national or regional community development fund, it should be able to demonstrate that the investment meets the geographic requirements of CRA (that the investment benefits the bank's assessment area or broader statewide or regional area that includes the bank's assessment area). The proposal would clarify that banks have flexibility to demonstrate the geographic requirement has been met. For example, written documentation from the fund's managers indicating the fund will use its best efforts to invest in a qualifying activity that meets the geographic requirements may be used. Similarly, a fund might earmark all projects or investments to investors in specific assessment areas (the same investment or project could not be assigned to more than one bank). If the fund cannot earmark specific projects, it can use an allocation method to recognize that each investor bank has an undivided interest in all projects in a fund.

ICBA Position. In an informal survey of community banks, few report using this type of investment vehicle to satisfy their CRA requirements. However, ICBA believes that it is fully appropriate to maintain this as an option. The community banks that do use the option report that it facilitates investments where there may be a lack of appropriate opportunities in the bank's immediate assessment area or that 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 – the hallmark of the nation’s community banks.

ICBA agrees that the proposed approach provides sufficient flexibility. However, ICBA does have concerns with allowing fund managers to allocate specific investments to specific institutions. One of the main reasons to encourage pooled funds is to address the problem that arises if a larger institution with ample resources can identify and “cherry-pick” investments and activities, making it difficult for smaller institutions with fewer resources to actually access community development opportunities. This is especially true where the opportunities in a given assessment area are limited. Creating a fund helps address this problem. However, if some banks can segregate out certain elements of the fund, that segregation diminishes the appeal for investing in the fund. By pulling investments out of the total fund by assigning them to individual banks through “side letters,” the rule would create an unintended consequence and help defeat the purpose for the pool. In other words, this arrangement would further the vicious cycle that places smaller institutions at a disadvantage when seeking community development investments. If there is a pooled investment fund then individual investments should not be segregated from the pool.

7. Examination as an Intermediate Small Institution. When a bank transitions to a large institution, the agencies allow a one-year lag period before a bank is examined under the large institution standards. The lag allows the bank to adjust to the data collection and reporting requirements required under the large bank standards. The proposal would clarify that there is no comparable lag period after a bank transitions from small institution to intermediate small institution since the data collection and reporting requirements do not come into play.

ICBA Position. ICBA agrees that it is not necessary to create the same lag for transition from a small institution to an intermediate small institution as is needed when a bank transitions into the large institution category. However, because there are distinctions between a small institution and an intermediate small institution, ICBA strongly encourages the agencies to contact individual banks as they approach the transition threshold from small institution to intermediate small institution to help educate them about the community development activities associated with intermediate institution requirements.

8. Reporting a Participation in a Community Development Loan. The CRA rules require a bank to report the aggregate number and aggregate amount of community development loans originated or purchased. A new Q&A would clarify that banks that purchase community development loan participations would only report the amount of the purchase (and not the entire loan origination). Note that this is different from the requirements that apply to small business and small farm loan participation purchases (Question 42(b)(2)-4).

ICBA Position. As noted above, ***ICBA is concerned that different treatment between community development loans and small business/small farm loans will be***

confusing. While ICBA agrees that it is appropriate to have banks report only the purchased portion of a loan, ICBA believes that for CRA purposes the treatment should be consistent and that only the portion of the loan that a bank maintains on its books should be counted. If the bank originates the loan, it should be given credit for the steps needed to originate the loan when the examiners evaluate the overall loan. But for aggregation purposes, ICBA recommends that only the portion purchased or retained be counted. Consistent treatment is especially important for smaller institutions that may not deal with these transactions on a daily basis – where exceptions and different treatment can possibly lead to error. Moreover, ICBA finds that in this situation, different treatment and the ensuing confusion can be a source of unnecessary regulatory burden.

9. Refinanced or Renewed Community Development Loans. A final new Q&A would clarify that the same limits for reporting refinancings and renewals of small business and small farm loans would also apply to refinancings and renewals of community development loans. Generally, a bank reports only one community development loan origination for a loan during a single year, including a renewal or refinancing of the loan if the loan is originated and renewed or refinanced in the same year. However, if the loan amount increases when it is renewed or refinanced in the same year the loan is originated, then the increase would also be reported.

ICBA Position. Generally, ICBA finds this proposed guidance useful. The proposal is sensible and reflects the reality of the transaction. However, ICBA is concerned about how the guidance will actually be applied. Since the goal is to avoid duplicate reporting, ICBA believes a simpler approach might be possible. Instead of considering whether a loan is refinanced in the same calendar year in which it was originated, a simpler method would be to consider only the amount of time elapsed since the loan originated. The proposal considers using the calendar year so ICBA recommends a one-year timeframe. If a loan is refinanced within one year of origination, then only the original transaction would be reported. If the loan is refinanced within one year but the principal balance is increased, the increased amount would be reported separately. That would avoid the needing to consider whether a refinance occurred during the same calendar year.

Revised Questions and Answers

In addition to the preceding nine new Q&As, the agencies also propose to revise several existing Q&As. In many instances, these changes merely clarify existing guidance by conforming the guidance to revisions to the regulations, improving readability, or adopting current terminology.

Activities that Promote Economic Development. The proposal would clarify existing language and add loans or investments in Rural Business Investment Companies (RBICs) and New Markets Tax Credit-eligible Community Development Entities (CDEs) as types of loans or investments considered as promoting economic development.

ICBA Position. ICBA supports this guidance since we believe this is an important option and that banks should be encouraged to participate in these activities. ICBA encourages the agencies to publicize these transactions and the fact that they will be positively considered for CRA purposes.

Examples of Community Development Loans. A loan to a New Markets Tax Credit-eligible CDE would be added as an example of a community development loan. Another new example would add loans over \$1 million made through the Small Business Administration's (SBA) 504 Certified Development Company program, based on the agencies' understanding that loans to businesses through the 504 program have community development as a primary purpose.

ICBA Position. ICBA supports this change and also encourages the agencies to publicize both the existence of these programs and the fact that they will be positively considered under CRA. Because the documentary requirements for some SBA programs can be daunting for smaller institutions with limited resources, ICBA encourages the agencies to offer simple guidelines that will facilitate banks' participating in the programs.

ICBA also believes that there are other programs that the agencies should consider including. For example, there are both Federal Home Loan Bank programs as well as USDA guaranteed loan programs for rural housing that should be added. Especially with the current mortgage markets, *any* affordable loan programs should be given serious consideration. In addition, there are farm credit programs and Farmers Home Administration business and industry guaranteed programs that should be included. Since one of the goals of the recent revisions to the rules is to encourage banks to reach out to encourage economic development in rural and underserved communities, any federal loan programs that encourage such activities should also be added. It would also be useful if the final rule makes it clear that any list that is developed is illustrative and not exclusive.

Examples of Community Development Services. A new example would state that opening or maintaining branches and other facilities that help revitalize or stabilize low- or moderate-income geographies, designated disaster areas, or distressed or underserved non-metropolitan middle-income geographies is an example of a community development service – unless the opening or maintaining of the branch or other facilities has been already considered as part of the evaluation of the bank's retail services.

ICBA Position. ICBA generally agrees with this approach. Opening and closing branches, especially in low and moderate income areas, can have a significant impact on the economic vitality of those areas. However, it is important to recognize that other factors, including the safety and soundness of the operation of a particular branch as well as the profitability of the branch and its fit within the overall market strategy of the bank must also be given weight in the evaluation. If there are valid reasons, a bank should not be penalized for closing a branch in a certain neighborhood simply because it is a low or moderate-income neighborhood.

Federal Home Loan Bank (FHLB) Unpaid Dividends. Since the 1995 revisions to CRA, the agencies have agreed that FHLB stock does not have a sufficient connection to community development to be considered as a qualified investment for CRA purposes. The revisions would clarify that the required annual Affordable Housing Program (AHP) contributions of the FHLBs also are not considered qualified investments for FHLB shareholders since they are not investments by FHLB shareholders but investments by the FHLB.

ICBA Position. ICBA agrees that simply belonging to a Federal Home Loan Bank should not be given credit under CRA. However, it is important to distinguish membership in an FHLB is different from participating in certain FHLB programs, especially those that benefit affordable housing. Where the bank is directly participating in an affordable housing program offered by the FHLB that should be given credit under CRA. In fact, it should be encouraged under CRA, since such activities actually further the underlying intent of CRA.

Responsive Lending Activities. The existing answer would be revised to highlight that establishing loan programs that provide relief to low- and moderate-income homeowners facing foreclosure is another type of lending that warrants favorable consideration for responding to the needs of the bank's assessment area. And, the example of community development services that describes various types of consumer counseling would be revised to highlight credit counseling that can help borrowers avoid foreclosure on their homes.

ICBA Position. ICBA supports this step. Generally, community banks originate traditional 30- and 15-year mortgages and avoid the subprime market. Community banks also traditionally provide solid credit advice and counseling to their customers and match each customer's need for credit with the product that best fits that customer.

The nation's community banks are weathering the current credit storm because they are well run, highly capitalized and among the most highly regulated financial institutions in the country. While in recent years, some lenders have been more concerned with which loan was best for them, community banks have always been concerned with which loan is best for their customers. Community banks remain well-positioned to make the loans that small businesses and consumers need and welcome a return to the common-sense underwriting that they have always offered.

While community banks generally shun the types of products that have created problems, community banks also stand ready to help customers avoid foreclosure. In those instances when a community bank has a customer who has a problematic loan that was originated by another lender, the community bank will offer counseling, refinancing and financial education to help customers. Encouraging these types of activities through favorable CRA credit is an added benefit, and ICBA supports this element of the proposal.

Assessment Areas May Not Extend Substantially Beyond Metropolitan Statistical Area (MSA) Boundaries. Proposed changes would reflect changes in the

standards the OMB uses to designate an MSA as well as the fact that the designation of consolidated MSAs (CMSAs) has been eliminated. The agencies have not adopted the terminology for a combined statistical area (CSA), although they indicate there may be instances when a bank could elect to use the CSA to determine its assessment area.

ICBA Position. ICBA does not object to the proposed guidance. However, while an informal survey of community banks did not find instances where banks had run into problems with the definition of an MSA, ICBA believes it is important that examiners recognize disparities in income levels can occur depending on how an MSA is defined. For example, in 2007, median income in the Kansas City, Kansas, MSA is \$67,500 but the median income for rural Kansas is \$47,900. This difference expands the moderate income threshold for a lender originating a loan in what used to be outside the MSA that is now in the MSA. Therefore, examiners need to be sensitive to the median income for an area at the time the loan was originated and not at the time the examiner is evaluating the bank.

Innovativeness and Complexity. The guidelines would clarify that “innovativeness” and “complexity” are not factors in the community development test applicable to intermediate small institutions. (Question 21(a)-2). Another change would provide that “the performance criterion of innovativeness applies only under the lending, investment, and service tests applicable to large institutions and the community development test applicable to wholesale and limited purpose institutions” (Question 28-1). The answer reaffirms that lack of those qualities will not automatically produce a “needs to improve” rating; rather, those qualities “may augment the consideration given to an institutions’ performance under the quantitative criteria of the regulations, resulting in a higher performance rating.”

ICBA Position. ICBA supports this guidance. It is important examiners clearly understand that many loans which may not be innovative or complex can be significant and important to providing appropriate resources for the local community – and that over-emphasis on innovation and complexity may actually undermine the underlying purpose of CRA. Similarly, it should be stressed to both examiners and bankers that outstanding loans or investments made during a prior period that continue to provide a benefit to the local community should not be discounted or ignored merely because they pre-date the existing evaluation period.

Additional Factors for the Agencies to Consider. The agencies have also requested whether there are additional items that should be considered going forward.

ICBA recommends that community investments in local projects that benefit the entire community, such as investments or donations to local government or quasi-governmental organizations, schools, civic, philanthropic, and other worthwhile local organizations receive CRA credit. While it might not always be possible to directly tie a particular activity to low- and moderate-income segments of the community or individuals, activities that benefit the entire community – where the community includes low- and moderate-income individuals or areas – should be granted CRA credit. This is especially important where local areas do not have separate and distinct low- or

moderate-income census tracts. Apparently, not all examiners support this concept and ICBA recommends that this be clearly stated by the agencies.

Second, additional flexibility should be given to the assessment area. Given the modern economy and strategies being pursued or considered by financial institutions, the relevance of the assessment area is diminishing. While, an assessment area designation certainly facilitates the review of CRA by a regulator as it establishes a finite base against which the bank is judged, a CRA assessment area should not of itself serve as an impediment to strategic decisions. A decision to make a loan or not make a loan should not be based on whether the transaction is inside or outside the assessment area. As technology, economic factors, competition and other influences evolve, this assessment area issue will become a growing obstacle for some institutions. While the assessment area should serve as a base in analyzing CRA performance, an institution should not be limited to activities only in that assessment area or be discounted in grade if a particular activity occurs outside but not inside an assessment area in a particular year. The regulatory approach should be balanced.

Third, it is important to stress to both bankers and examiners that transactions or activities – whether for CRA or otherwise – are always to be undertaken in a safe and sound manner and that safety and soundness always comes first.

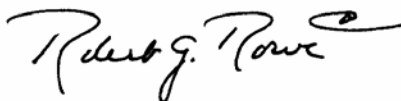
Finally, ICBA urges the agencies to ensure that the guidelines are simple and easily applied. Most community banks are successful because they are integral parts of their local communities. Their success depends on the success of the community.

Conclusion

Generally, ICBA supports the proposed changes as they will help clarify the guidance and make it easier for community banks to understand what constitutes compliance with the requirements. ICBA welcomes the agencies continued and ongoing attention to CRA and welcomes the opportunity to continue working with the agencies on streamlining the requirements and eliminating unnecessary burdens. ICBA urges the agencies to continually focus on the fundamental premise of the statute: local deposits should be used to benefit local communities.

Thank you for the opportunity to comment. If you have any questions or need additional information, please contact the undersigned by telephone at 202-659-8111 or by e-mail at robert.rowe@icba.org.

Sincerely,



Robert G. Rowe, III
Regulatory Counsel