



"We believe that, when armed with appropriate resources, Native peoples hold the capacity and ingenuity to ensure the sustainable, economic, spiritual and cultural wellbeing of their communities."

May 16, 2013

Re: Proposed Changes to Interagency Q&A

OCC: Docket ID OCC-2013-0003

Federal Reserve: Docket No. OP-1456

FDIC: Attention: Comments on CRA Interagency Q&A

To Whom It May Concern:

First Nations Development Institute (First Nations) appreciates the opportunity to comment on the proposed changes to the Interagency Questions and Answers Regarding Community Reinvestment. We are pleased to see that the Agencies are making a concerted effort to address issues that were brought up in previous hearings.

First Nations Development Institute (www.firstnations.org) was founded in 1980 and is guided by the belief that when armed with the appropriate resources, Native peoples hold the capacity and ingenuity to ensure the sustainable, economic, spiritual and cultural well-being of their communities. Our mission is to strengthen American Indian economies to support healthy Native communities. We invest in and create innovative institutions and models that strengthen asset control and support economic development for American Indian people and their communities. With the support of individuals, foundations, corporate and tribal donors, First Nations Development Institute improves economic conditions for Native Americans through technical assistance & training, advocacy & policy, and direct financial grants.

First Nations Development Institute helped found the first Community Development Financial Institution (CDFI) on an Indian reservation – now known as Lakota Funds. First Nations Development Institute also works in partnership with our sister organization, First Nations Oweesta Corporation, to conduct research on topics related to the Native CDFI industry and to provide technical assistance to new and emerging Native CDFIs

First Nations believes that the proposed changes to the Q&A will enhance community reinvestment activity. However, First Nations is outlining additional revisions delineated by topic and question number below, that specifically address applying the Q&As to be more inclusive for CDFIs in general, as well as Native American CDFIs and Indian Country more specifically.

1) Existing Q&A §__ .12(h)-6

First Nations had specific concerns regarding the commentary on community development activities outside an institution's assessment area(s) in the broader statewide or regional area that includes the institution's

Main Office:

Field Office:

2432 Main St., 2nd Floor • Longmont, Colorado 80501

2217 Princess Anne St, Ste 111-1 • Fredericksburg, Virginia 22401

www.firstnations.org

assessment areas. Most commonly, Native CDFIs provide investments and services to tribal citizens that benefit the regional area including those living on reservations that can be expansive in size, and also neighboring tribal members in other reservation communities. Consistent with the language in the Agencies' proposed changes, Native CDFIs that benefit a regional area are not conducted in lieu of, or to the detriment of activities in the institution's assessment area. Accordingly, First Nations recommends the following revision to §__ .12(h)-6:

Investments in Native CDFIs should be specifically identified as receiving full consideration when evaluating whether community development activities are being conducted in lieu of, or to the detriment of, activities in the institution's assessment area(s).

2) Existing Q&A §__ .12(h) – 7

In addressing the Agencies' definition of "regional area," First Nations suggests including the following language to enhance the current definition:

A7. A "regional area" may be an intrastate area or a multistate area, *including an Indian reservation*, which includes the financial institution's assessment area.

An Indian reservation is a federally recognized geographic designation and is comprised of all the qualifications listed in the Q&A including containing geographic, demographic and economic interdependences. By including Indian reservations in the definition of "regional area" it makes it clear that financial institutions with Indian reservations in the state in which the institution has an investment area(s) would receive positive consideration for its community development activities in that Indian reservation community.

3) Existing Q&A §__ .12(g)-2

First Nations has two specific comments in response to determining whether an organization is providing community services targeted to low- or moderate-income individuals.

In the assessment of an organization's target community, we ask that the Agencies automatically consider Native CDFIs as organizations targeting low- and moderate-income individuals. Per the CDFI Fund NACA initiative, CDFIs are required to specifically provide investment and services to low-income populations.

Second, First Nations commends the Agencies' decision to incorporate previous suggestions by commentators to utilize the USDA's National School Lunch Program and Medicaid as indicators of low-moderate income populations. However, while the use of free or reduced priced meals and Medicaid provide adequate guidance in determining low- to moderate-income persons, it must be noted that tribal schools commonly have 100% of the student body receiving free lunch programs. Accordingly, First Nations recommends that the Agencies include *long-term unemployment* as denoted extensively in the Bureau of Indian Affairs' (BIA) *American Indian Population and Labor Force Report* to determine low-and moderate-income individuals in reservation communities. The report provides a summary of the eligible working population on Indian reservations that is unemployed, underemployed, or has given up looking for work. The report also includes statistics about residents of Indian reservations who are employed but remain in poverty.

Main Office:

Field Office:

4) Existing Q&A § __ .12(i)-3

Under the section addressing what constitutes community development services, First Nations requests one addition to be more inclusive for Native CDFIs.

Suggestion: Provide guidance to Native CDFIs on how to solicit and position themselves to attract qualified executives to provide said services.

5) New Q&A § __ .12(t)-9

Under the proposed Q&A a bank likely would not receive full consideration for a Qualified Investment to a CDFI that was intended, and used, for community development purposes. First Nations proposes that the Agencies consider whether the agreement between the financial institution and the recipient organization stipulated whether the investment was to be used for community development purposes. If the agreement calls for the recipient to use the Qualified Investment for community development purposes, the financial institution should receive full consideration for its investment. To accommodate the common practice of banks making Qualified Investments in CDFIs and similar organizations, the Q&A for __.12 (t)-9 might read (additional language in italics):

A9. Examiners will give quantitative consideration for the dollar amount of funds that benefit an organization or activity that has a primary purpose of community development. If an institution invests in (or lends to) an organization that, in turn, invests those funds in instruments that do not have as their primary purpose community development, such as Treasury securities, and *the agreement between the institution and the recipient requires that the recipient* uses only the income, or a portion of the income, from those investments to support the organization's community development purposes, the Agencies will consider only the amount of the investment income used to benefit the organization or activity that has a community development purpose for CRA purposes.

If the agreement between the institution and the recipient requires that the investment be used for community development purposes, then the Agencies will give consideration for the full amount of the investment even if the recipient, in turn, invests the funds and earns income from that investment.

6) Redesignated Q&A § __.21 (f)-1

First Nations agrees with comments made by Opportunity Finance Network (OFN) in 2007 and 2009 that the Agencies should apply the same consideration to partnerships with CDFIs that they extend to Qualified Investments in minority- and women-owned institutions and low-income credit unions. As noted by OFN:

Opportunity Finance Network agrees with the Agencies in applying a "broader geographic criterion when evaluating capital investments, loan participations, and other ventures undertaken by that institution in cooperation with minority- or women-owned institutions or low-income credit unions..." if the Agencies apply the criterion to community development financial institutions (CDFIs) in addition to the other groups included. We urge the Agencies to include CDFIs since many CDFIs, especially National CDFIs, meet the credit needs of local communities on a state or regional basis. CDFIs are a recognized financial intermediary in the CRA and they are specifically highlighted in Sec. ____ .12 (h)-1 as an example of community development loans.

Main Office:

Field Office:

First Nations continues to urge the Agencies to include partnership with CDFIs, as well as Native CDFIs, in this effort to help financial institutions reach the populations targeted by minority- and women-owned institutions and low-income credit unions.

By statute, CDFIs must serve the low- and moderate-income communities referred to in the CRA. Both the statutory requirements and the actual performance of Treasury certified CDFIs support the addition of CDFIs to the issue covered by the Q&A and the current proposal.

CDFI certification is a designation conferred by the Department of the Treasury's CDFI Fund. As a certified CDFI, a financial institution must demonstrate that it has a primary mission of promoting community development; that it provides financial products and development services to designated distressed or underserved target markets; and that it maintains accountability to these markets.

Like CDFIs, Native CDFIs, by statute, are required to serve low-and moderate- income populations, but in addition, specifically serve reservation communities that are comprised of minorities. In addition, Native CDFIs are frequently run by Native Americans (minority), and many are spearheaded by women. As such, Native CDFIs should undoubtedly be considered on the same plane as Qualified Investments in minority- and women-owned institutions and low-income credit unions.

First Nations greatly appreciates the opportunity to submit comments on the proposed revisions to the CRA Q&A. We commend the Agencies for taking action to making the Interagency Q&A more lucid and inclusive.

Best wishes,



Sarah Dewees, Ph.D.
Senior Director of Research, Policy, & Asset Building Programs
First Nations Development Institute
2217 Princess Anne St., Suite 111-1
Fredericksburg, VA 22401
Office: 1-540-371-5615
Cell: 1-540-907-6247
sdewees@firstnations.org

Main Office:

Field Office:

2432 Main St., 2nd Floor • Longmont, Colorado 80501

2217 Princess Anne St, Ste 111-1 • Fredericksburg, Virginia 22401

www.firstnations.org