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**Comptroller of the Currency  
Administrator of National Banks**

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Washington, DC 20219

November 4, 1996

**Interpretive Letter #775  
April 1997  
12 U. S.C. 2901**

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Dear [     ]:

This letter responds to your inquiry concerning the application of Community Reinvestment Act (CRA) regulations to three programs offered by your company. In your letter, you briefly describe three programs offered by your company to financial institutions. Under "Rebates Plus," an institution may designate a charitable organization to receive a dollar amount equal to two percent of its gross annual purchases of your company's products. Under the "Educational Thrift Services" program, an institution provides financial education services to local students. Finally, under the "First Step" program, an institution establishes savings accounts for babies born in a local hospital.

I am unable to determine from the information provided in your letters whether a financial institution would receive positive CRA consideration for its participation in any of these programs. As explained below, however, an institution may receive positive CRA consideration for making certain "qualified investments" or providing community development services in its community. An institution considering participating in one of your company's programs should be guided by the following discussion in determining whether its participation would constitute a qualified investment or community development service for CRA purposes.<sup>1</sup>

The CRA regulations establish the framework and criteria by which the federal financial regulatory agencies assess an institution's record of helping to meet the credit needs of its community. The new rules set out a number of different evaluation methods for examiners to use, depending on the business strategy and size of the institution under examination.

Regardless of the evaluation methods used by examiners, however, any financial institution can receive positive consideration for making a "qualified investment" or providing a

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<sup>1</sup> For your convenience, I have enclosed the section of the Federal Register in which the final CRA regulations were published.

“community development service” that benefits its assessment area or a broader statewide or regional area that includes the assessment area.<sup>2</sup> The CRA regulations define “qualified investment” as “a lawful investment, deposit, membership share or grant that has as its primary purpose community development.” *See* 12 CFR §§ 25.12(s), 228.12(s), 345.12(s), and 563e.12(r). “Community development service” is defined, in part, as a service that has “as its primary purpose community development” and which is “related to the provision of financial services.” *See* 12 CFR §§ 25.12(j), 228.12(j), 345.12(j) and 563e.12(i). “Community development,” in turn, is defined to include:

- (1) Affordable housing for low- or moderate-income individuals;
- (2) Community services targeted to low- or moderate-income individuals;
- (3) Activities that promote economic development by financing small businesses; or
- (4) Activities that revitalize or stabilize low- or moderate-income geographies.

*See* 12 CFR §§ 25.12(h), 228.12(h), 345.12(h), and 563e.12(g).

Thus, an institution would receive favorable CRA consideration for making a qualified investment that benefits its assessment area(s), or a broader statewide or regional area that includes its assessment area(s), by providing any of the above activities. For example, an institution might receive CRA consideration for its participation in a program in which the financial institution makes an investment in an entity that provides affordable housing for low- or moderate-income individuals in the institution’s assessment area(s). An institution would also receive favorable CRA consideration for providing a community development service by offering financial education services that are targeted to low- or moderate-income individuals in the institution’s assessment area(s), or for supporting “activities essential to the

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<sup>2</sup> Examiners of large institutions, which are evaluated under the lending, investment and service tests, consider qualified investments under the investment test and community development services under the service test. *See* 12 CFR §§ 25.23(a) and 25.24, 228.23(a) and 228.24, 345.23(a) and 345.24, and 563e.23(a) and 563e.24. In a small institution examination, examiners may consider lending-related qualified investments when evaluating the first four performance criteria of the small institution performance test. *See* 12 CFR §§ 25.26(a)(1), 228.26(a)(1), 345.26(a)(1), and 563e.26(a)(1). Moreover, qualified investments and community development services may also be considered to determine if a small institution merits an outstanding CRA rating. *See* 12 CFR pt. 25 app. A(d)(2), pt. 228 app. A(d)(2), pt. 345 app. A(d)(2), and pt. 563e app. A(d)(2). The community development test, which is appropriate for wholesale and limited purpose institutions, evaluates, inter alia, qualified investments and community development services. *See* 12 CFR §§ 25.25(c)(1), 228.25(c)(1), 345.25(c)(1), and 563e.25(c)(1). And, finally, institutions evaluated on the basis of a strategic plan must describe in their plan how they intend to meet the credit needs of their assessment area(s). They may meet credit needs through lending, *investment*, and/or *services*, as appropriate. *See* 12 CFR §§ 25.27(f)(1), 228.27(f)(1), 345.27(f)(1), and 563e.27(f)(1) (emphasis added).

capacity of low- and moderate-income individuals [in the institution's assessment area(s)]. . . to utilize credit or to sustain economic development." *See* 60 Fed. Reg. At 22,162, n.3.<sup>3</sup>

I trust this letter provides you and your customers sufficient information to determine whether your company's programs offer a financial institution the opportunity to make qualified investments or provide community development services under the CRA regulations. If you require further information, please do not hesitate to contact me or Michele Meyer, an attorney on my staff, at the above address or at (202) 874-5750.

Sincerely,

/s/

Michael Bylsma  
Acting Director  
Community and Consumer Law Division

Enclosure

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<sup>3</sup> It appears from your letter that the "Rebates Plus" and "First Step" programs may involve the provision of financial grants by a financial institution. Under the CRA regulations, the weight accorded a grant is determined under the performance criteria in the regulations' investment test. *See* 60 Fed. Reg. At 22161-62. Under the investment test, the OCC will evaluate "the investment performance of a bank pursuant to the following criteria: (1) the dollar amount of qualified investments; (2) the innovativeness or complexity of qualified investment; (3) the responsiveness of qualified investments to credit and community development needs; and (4) the degree to which the qualified investments are not routinely provided by private investors." 12 C.F.R. §§ 25.23(e), 228.23(e), 345.23(e), and 563e.23(e).