



Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

Interpretive Letter #665
June 1995
12 U.S.C. 2901

May 31, 1995

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Dear []:

This letter responds to your inquiry whether, under the current and the newly promulgated Community Reinvestment Act ("CRA") regulations, grants by national banks to a non-profit foundation ("the Foundation") that educates urban, at-risk youths in small business and entrepreneurial skills would receive favorable consideration under CRA, assuming that the Foundation operates this education program in the bank's designated local community. Based on the information you provided and as more fully discussed below, a bank would receive CRA consideration for grants to organizations, such as the Foundation, that provide credit education to low- and moderate-income members of the bank's local community.

The Foundation and its Activities

The Foundation is a national, non-profit organization that teaches at-risk youths the skills necessary to begin a small business. The Foundation's objective is to educate its program participants in the practical skills necessary to achieve financial independence through small business formation or traditional employment.

The skills taught in the Foundation's entrepreneurship courses include the use of debt financing and basic banking skills. The students meet with banking representatives at a bank in their local community who instruct the students in the use of business loans and investment capital. As part of their use-of-credit education, students open a savings account during their bank visit with grant money provided by the Foundation. Upon completion of the course, the Foundation aids graduates with opportunities for self-employment by providing seed capital for fledgling ventures.

Analysis

Current CRA standards

The CRA regulation currently in effect, 12 C.F.R. Part 25, provides that the OCC will evaluate the bank's record in helping to meet the credit needs of its community, including through participation in charitable activities and community development projects in the bank's designated local community. For example, under assessment factors "(h)" and "(l)" at 12 C.F.R. § 25.7, the OCC will consider: "The bank's participation, including investments, in local community development and redevelopment projects or programs"; and "Other factors that, in the Comptroller's judgment, reasonably bear upon the extent to which a national bank is helping to meet the credit needs of its entire community." In addition, depending on the actual bank activities involved, if bank personnel participate in educating community members, a bank could also receive positive consideration under 12 C.F.R. § 25.7(b): "The extent of the bank's marketing and special credit-related programs to make members of the community aware of the credit services offered by the bank."

The "Interagency Questions and Answers Regarding Community Reinvestment," published at 58 *Fed. Reg.* 9176 (Feb. 19, 1993), provide additional information about the types of activities that the federal financial institutions regulatory agencies consider when assessing CRA performance. The answer to question 22 states that in order to contribute to an institution's CRA performance, a charitable donation should fall into one of the following categories: (1) It resulted in the sharing of information about the institution's lending services; (2) Information was obtained regarding the community's credit needs; (3) Community members were informed about how to get or use credit; (4) The activity or charitable donation assisted in providing credit services or information to the community; and (5) The activity or donation assisted a community development or redevelopment effort. 58 *Fed. Reg.* at 9181. Question 18 states that technical assistance to community-based nonprofit groups, such as consumer education to broaden knowledge and use of credit and deposit services, will be considered. 58 *Fed. Reg.* at 9180.

Based on the regulation and the Questions and Answers, an activity such as the Foundation would receive CRA consideration as long as it benefits the bank's delineated local community.

New CRA regulation

Under the investment test of the new CRA regulation, 60 *Fed. Reg.* 22156, 22181 (May 4, 1995), to be codified at 12 C.F.R. § 25.23, the OCC will evaluate a national bank's record "of helping to meet the credit needs of its assessment area(s) through qualified investments that benefit its assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s)." A "qualified investment" is defined as "a lawful investment, deposit, membership share, or grant that has as its primary purpose community development." 60 *Fed.*

Reg. at 22180 (to be codified at 12 C.F.R. § 25.12(s)). "Community development" means, *inter alia*, "community services targeted to low- or moderate-income individuals; activities that promote economic development by financing businesses or farms that meet the eligibility standards of 13 C.F.R. 121.802(a)(2) or have gross annual revenues of \$1 million or less; or activities that revitalize or stabilize low- or moderate-income geographies." 60 *Fed. Reg.* at 22179 (to be codified at 12 C.F.R. § 25.12(h)).

The preamble of the new regulation provides further information about qualified investments. Among examples of qualified investments, footnote three of the preamble includes investments or grants "to not-for-profit organizations serving low- and moderate-income housing or other community development needs, such as home-ownership counseling, home maintenance counseling, credit counseling, and other financial services education; and in or to organizations supporting activities essential to the capacity of low- and moderate-income individuals or geographies to utilize credit or to sustain economic development." 60 *Fed. Reg.* at 22162 n.3.

The preamble also states that "[g]rants do not automatically have less weight than investments, but the weight accorded a grant is determined under the performance criteria in the investment test." 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 investments; (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." 60 *Fed. Reg.* at 22181 (to be codified at 12 C.F.R. § 25.23(e)).

These excerpts from the new regulation indicate that the OCC would consider a national bank's contribution to the Foundation under the investment test if the Foundation's activities benefit the bank's assessment area(s) or a statewide or regional area that includes the bank's assessment area(s).

I trust this letter is responsive to your inquiry.

Sincerely,

/s/

Matthew Roberts
Director
Community and Consumer Law Division