

**Donald C. Kelly & Associates**  
**Community Development Services**

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**Docket No. 01-16**

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Docket No. 01-16  
Communications Division  
Public Information Room  
Mailstop 1-5  
Office of the Comptroller of the Currency  
250 E. Street, SW  
Washington, DC 20219

Dear Office of the Comptroller of the Currency:

Please consider the following three recommendations for improvement of the Community Reinvestment Act regulations.

1. **Keep and Modify the Strategic Plan Option:** The ideas behind the Strategic Plan Option are sound: 1) Banks with unusual or especially challenging conditions need to have alternative ways of meeting their CRA responsibilities that are appropriate to their circumstances. 2) Banks seeking greater certainty about what levels of performance will be considered acceptable by regulators need to have a mechanism available through which predictable performance benchmarks can be established. 3) Community representatives need to have an opportunity for input into regulator-approved Strategic Plans.

As sensible as the Strategic Plan Option is in these regards, it nevertheless has had limited usage. The reasons are various and include the daunting process that banks face in getting a plan approved. To make the Strategic Plan Option more user-friendly and useful to banks, community groups and regulators, please consider the following suggestions:

- A. Tie the Option into the regular CRA Performance Evaluation so that weaknesses identified by examiners, in consultation with community groups, can be addressed in an explicit way with assurances to the bank

that meeting the specified and measurable goals will result in a passing grade next time around.

- B. Tie the Option into merger and acquisition events so that “agreements” with community groups can be reviewed by regulators and incorporated into an approved Strategic Plan. This would give the approved elements of the agreement regulatory power and in return would give the bank a safe harbor for its performance in meeting those agreed upon performance goals.

For more information about how the Strategic Plan Option has worked and opinions about its value please see: Donald C. Kelly, *ABA Bank Compliance*, “Making Life Easier – How the CRA Strategic Plan Option Can Work”, May/June 2001.

2. Define and Standardize Grade Levels of Performance Against Benchmarks: Surveys of Performance Evaluations reveal that examiners are all over the map with regard to what levels of bank performance against benchmarks warrant grades of “excellent”, “good”, “adequate”, “poor” or “very poor.” This inconsistency undermines the credibility of CRA examiners, regulatory agencies and the CRA itself. It makes the examination process prone to subjective treatment by examiners and creates resentment on the part of banks. To improve the objectivity and credibility of the examination process please consider instituting a grading system along these lines”

**EXCELLENT:** Bank’s performance exceeds benchmark by 50% or more.

**GOOD:** Bank’s performance exceeds benchmark by 16-49%.

**ADEQUATE:** Bank’s performance falls within a range of 15% (plus or minus) of the benchmark.

**POOR:** Bank’s performance falls within a range of 16-49% below the benchmark.

**VERY POOR:** Bank’s performance is 50% or lower than the benchmark.

3. Definition of Qualified Community Development Needs to be Expanded: As the field of community revitalization evolves there has been growing understanding of the important roles of soft community-building strategies – strategies that build community meaning, spirit and identity. The most sophisticated, multi-dimensional revitalization plans include not only housing, economic development and social services but community-building arts as well. (See Donald C. Kelly, *Shelterforce*, “Arts Build Community,” January/February 2000.) Many banks

now work with community groups that incorporate this strategy in their revitalization efforts but bank support for such work does not qualify for regulatory approval under the current interpretation of CRA regulations. As a result an important new strategy for community development is being stultified, banks are being frustrated and regulators are looking to be inflexible and behind the times.

The keys to reasonably defining the difference between qualified and unqualified forms of art are the following:

- A. The purpose of the art must be community-building rather than personal expression. Examples can include wall murals, ceremonial gardens, and performances of a people's history.
- B. The community-building art project or program must be a formal part of a comprehensive community revitalization plan.

If I can be of any further assistance in consideration of these recommendations please contact me. Thank you for your attention.

Yours truly,

Donald C. Kelly

Note: I am a former community activist, bank regulator (Community Affairs Department of the Federal Reserve Bank of Philadelphia) and bank CRA Manager (PNC Bank). I am currently a consultant and part-time professor in the Campolo School for Social Change of Eastern College in Philadelphia.