Jennifer J. Johnson, Secretary
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Robert E. Feldman, Executive Secretary
Attention: Comments
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Regulation Comments
Chief Counsel's Office
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RE: Community Reinvestment Act; Interagency Questions and Answers Regarding Community Reinvestment (Docket OP-1290-Federal Reserve; RIN 3064-AC97(FDIC); Docket ID OCC-2007-0012 (OCC); Docket ID OTS-2007-0030 (OTS))

Dear Ms. Johnson:

The Community Development Bankers Association (CDBA) welcomes this opportunity to submit comments on the above referenced proposed Interagency Questions and Answers Regarding Community Development. CDBA is the national trade association of the Community Development Bank (CDB) sector. CDBs are Federal Deposit Insurance Corporation-insured banks and thrifts that have a primary mission of promoting community development. Currently, there are approximately 50 CDBs across the nation that are certified by the U.S. Treasury Department's Community Development Financial Institutions (CDFI) Fund.

Our members serve urban and rural communities that lack access to credit and are not adequately served by the traditional banking industry. CDBA strongly supports the proposed revisions to the Interagency Questions and Answers. We believe there are many useful additions and clarifications. In particular, we commend you for clarifications related to community development services, service to underserved or distressed non-metropolitan middle-income geographies, Individual Development Accounts, New Markets Tax Credit investments, and loans made under the SBA 504 program.

We focus our comments on four proposed Q&As of particular importance to Community Development Financial Institutions, proposed sections ___.12(g)-4, ___.12(g)(3)-1, ___.12(h)-7, and ___.23(a).

<u>Investments in CDFIs Should Receive the Same Treatment as Investments in Minority- or Women-Owned Financial Institutions and Low-Income Credit Unions</u>

New proposed section ___.12(g)-4 would provide that "capital investments, loan participations, and other ventures" engaged in by a majority-owned institution in cooperation with minority- or women-owned financial institutions and low-income credit unions will be eligible for CRA credit as long as these activities help meet the credit needs of the communities in which the investee institution is chartered, regardless of the geographic focus of the investing majority institution. We applaud this recognition of the important role of minority- and women-owned financial institutions and low-income credit unions in serving the communities in which they are located. For the reasons discussed below, we believe identical treatment should be extended to all certified Community Development Financial Institutions (CDFIs).

The Riegle Community Development and Regulatory Improvement Act of 1994 (PL 103-325), established the Community Development Financial Institutions Fund "to promote economic revitalization and community development through investment in and assistance to community development financial institutions" and established the qualifications of a CDFI (12 USC 4701). This Act post-dated the 1992 revisions to CRA which added the section concerning minority- and women-owned financial institutions and low-income credit unions. The Riegle statute requires: (1) that a "community development financial institution" must have "a primary mission of promoting community development"; and (2) "serve an investment area or targeted population." An "investment area" is defined as a geographic area that "meets objective criteria of economic distress . . . [and] has significant unmet needs for loans and investments." A "targeted population" is defined as individuals or a group of individuals that "are low-income persons; or otherwise lack adequate access to loans or equity investments." (12 USC 4702 (5), (16), (20)) In carrying out the mandate of the Riegle Act, the U.S. Department of Treasury requires that a certified CDFI demonstrate that at least 60% of its activities (e.g. loans, investments, services) be directed to an "investment area" or "targeted population" as defined in the statute. By statute, a CDFI must serve the same "low- and moderate-income neighborhoods" referred to in the CRA statute.

U.S. Department of Treasury certified CDFIs must and do in fact provide these services specified by the 1992 revisions to CRA. In fiscal year 2005, the federal government provided CDFIs approximately $51 million. According to the CDFI Data Project, during that year, the 496 CDFIs responding to the Data Project survey (out of approximately 700 certified CDFIs) leveraged that money to make $4.3 billion in investments, including financing and assisting over 9,000 businesses to create or maintain more than 39,000 jobs; facilitated the construction or renovation of over 55,000 units of affordable housing; built or renovated 613 community facilities in economically disadvantaged communities; and provided over 6,000 alternatives to payday loans and helped more than 15,000 consumers open their first bank account.[1] Of CDFI customers in 2005, 52% were female, 58% minority, and 68% low-income.[2]

In summary, certified CDFIs both are chartered to serve—and do serve—the types of communities that minority- and women-owned financial institutions and low-income credit unions serve. Investments in and participations and other ventures with CDFIs should be granted the <u>same</u> treatment under CRA that similar activities with minority- and women-owned financial institutions and low-income credit unions are accorded.

<u>Investment in a Fund that Invests in Minority- or Women-Owned Financial Institutions, Low-Income Credit Unions or Certified CDFIs Should Explicitly Be Treated the Same as Direct Investment in Such Entities</u>

Proposed section ___.23(a) provides that investment in a fund, the purpose of which is community development, will receive consideration for CRA credit "provided the investment benefits one or more of the institution's assessment area(s) or a broader statewide or regional area(s) that includes one or more of the institution's assessment area(s)." Because proposed section ___.12(g)-4 removes the assessment area limitation for investments in minority- or women-owned financial institutions and low-income credit unions, logic compels that investment in a fund that invests in such entities be extended CRA consideration without regard to the assessment areas of the investing institution, so long as the entities in which the fund invests serve the credit needs of the communities in which those entities are chartered. We urge the agencies to make this clear in sections ___.12(g)-4, ___.23(a)-1 and ___.23(a)-2, and to also make such treatment applicable to funds that invest in certified CDFIs.

<u>An Investment in a Certified CDFI Should Be Regarded Presumptively As "Promoting Economic Development"</u>

Section___.12(g)(3) relates to the "purpose test" that is part of the definition of "community development." We applaud the proposed additions to this section of loans to or investments in Rural Business Investment Companies and New Markets Tax Credit-eligible Community Development Entities as presumptively promoting economic development. We strongly urge the addition of loans to or investments in certified Community Development Financial Institutions to the list of presumptive economic development activities. As demonstrated above, both the statutory requirements to become a CDFI and the actual performance of those who are certified support the addition of CDFIs to the list.

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[1] "Providing Capital, Building Communities, Creating Impact, The CDFI Data Project," FY 2005 Data, Fifth Edition, www.opportunityfinance.net/store/product.asp?pID=81&c=34715.

[2] Ibid.

National, As Well As Statewide or Regional Organizations Should be Eligible to Be Considered as Addressing Assessment Area Needs

Section ___.12(h)-7, in the context of defining "regional area," states that "Community development loans and services and qualified investments to statewide or regional organizations that have a bona fide purpose, mandate, or function that includes serving the geographies or individuals within the institution's assessment area(s) will be considered as addressing assessment area needs." We urge that either "national" be added after "regional," or that "statewide or regional" be deleted. Many organizations operate in a limited number of specific geographies in several regions of the country. Such organizations can be at least as effective in serving an investing institution's assessment area that includes one of the organization's geographic concentrations as a statewide or regional organization whose activities are more diffuse across a state or region. The Q&A provides that examiners will evaluate "actual or potential benefit to the institution's assessment area" in deciding whether and how much credit to grant. Given this fact-based assessment, there is no reason to exclude loans, services and investments to national organizations from consideration. See ___.12(h)-6, which is silent about the geographic scope of "community development organizations or programs."

Once again, CDBA sincerely appreciates the opportunity to comment on the proposed Interagency Questions and Answers.

Sincerely,

Robert M. McGill
Board Chairman