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September 7, 2007

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th St and Constitution Ave., NW.
Washington,DC 20551
Docket No. OP-1290

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW.
Washington, DC 20429
RIN number 3064-AC97

Office of the Comptroller of the Currency
250 E Street, SW., Mail Stop 1–5
Washington, DC 20219
Docket ID OCC-2007-0012'

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW.
Washington, DC 20552
ID OTS-2007-0030

Re: Interagency Proposed CRA Questions and Answers

Dear Sir/Madam:

The California Bankers Association ("CBA") is pleased to provide these comments in support of the federal banking agencies' ("Agencies") proposed questions and answers related to the Community Reinvestment Act. CBA is a professional non-profit organization established in 1891 and represents most of the FDIC-insured depository institutions in the state of California. CBA regularly contributes comment letters on behalf of California financial institutions on proposals that significantly affect the business of banking.

The Agencies propose a number of changes and additions to the CRA Questions and Answers that we support. Agency Q&As are important and helpful to financial institutions as they provide guidance and clarity. Our specific comments follow.

Minority- and women-owned institutions. This Q&A states that an institution would receive CRA consideration for an investment into a minority- and women-owned institution without regard to the investing institution's assessment area. The minority- or women-owned institution need not be located in, and the activities need not benefit, the assessment area(s) of the majority-owned institution or the broader statewide or regional area that includes its assessment area(s). This clarification would go far to encourage such investments as opportunities are not equally distributed in all areas. Therefore, CBA supports this clarification.

Intermediate small institution loans. This Q&A corrects a potential gap arising because of the new CRA test applicable to intermediate small institutions. Intermediate small institutions are not required under CRA to collect and report small business and small farm loan data, and some may not be required to report home mortgage loans under HMDA. Such loans could have a community development effect and should be eligible for CRA credit. This proposed Q&A would permit the intermediate small institution to have such loans evaluated for CRA credit. This clarification would give such institutions more flexibility, and would remove a potential disparity between intermediate small institutions on the one hand, and small and large institutions on the other. Therefore, we support this proposed Q&A.

"Other Loan Data." This proposed Q&A consolidates prior guidance and Q&As on what information is provided as "other loan data." In addition, the revised Q&A includes a discussion about when information about loans on properties that set aside a portion for affordable housing may be provided to examiners as "other loan data." Currently, loans greater than $1 million are not reported as small business loans, and loans that do not have a primary purpose of community development are not reported as community development loans. Nevertheless, this Q&A clarifies that the bank may have these loans considered for its CRA evaluation as "other loan data." CBA supports this proposed Q&A.

Purchased loan participations. This Q&A states that a purchased loan participation will be treated in the same manner for CRA purposes as a purchased loan. This answer makes intuitive sense and responds to arguments that these loans differ qualitatively from a CRA perspective. On the contrary, from the perspective of the affected community, there is no difference between an institution's purchase of an entire loan or a portion of one. In both instances, additional capital is invested into the community. CBA supports the proposed Q&A.

Small business/farm loans and the "refinancing" definition under HMDA. The proposal states that a loan of $1 million or less with a business purpose that is secured by a residence is considered a small business loan for CRA purposes only if the security interest in the residential property was taken as an abundance of caution. If this same loan is refinanced and the new loan is also secured by a residence but only through an abundance of caution, this loan will be reported both as a refinancing under HMDA and as a small business/farm loan under CRA.

The Agencies' concern of "double counting" is unfounded as this scenario is unlikely to affect a typical institution's CRA rating. Indeed, it is much more likely that an institution would forget to "double count." We also add that it is by no means certain whether, in any instance, a lien on a residence is taken because of an abundance of caution, as business loan underwriting is typically more complex than, for example, mortgage lending. Nevertheless, CBA supports the proposed Q&A because it adds clarity.

CRA credit for investment in national/regional funds. CBA agrees that a bank should be given the option to demonstrate that an investment in a national or regional fund with a primary purpose of community development meets the geographic requirements of CRA. We would add that the Agencies should be flexible in this regard and recognize that fund managers are limited in their ability to produce documentation, and banks may have limited influence to obtain such documentation.

Transition size of small and intermediate small institutions. Prior to the creation of the intermediate small institution category, the Agencies allowed a one-year "lag period" between when bank is no longer a small institution and when it reports CRA data under the large bank tests. This Q&A clarifies that there is no need for a similar lag period during the transition from a small bank and an intermediate small bank because there is no data collection and reporting requirement for the intermediate small bank. The Agencies will refer to the FFIEC website for the current information on the bank's size. CBA supports this clarification.

Community development loan participation. This proposed Q&A would result in different treatment between the reporting of a purchased participation in community development loans and small business/farm loans. Banks that purchase community development loan participations should report only the amount of their purchase, while a purchased participation in a small business/farm loan is reported in the amount of the origination. The latter is consistent with the way loans are reported in the Call Reports and Thrift Financial Report, but the Agencies only consider the amount actually purchased. Institutions have access to both sets of information about purchased participations in community development loans. In concept, we would support any consistent approach. The importance is to achieve clarity.

Responsive lending activities. CBA supports a Q&A to the effect that loan programs that provide relief to low- and moderate-income homeowners who are facing foreclosure would warrant favorable CRA consideration because such lending is responsive to the needs of the institution's assessment areas.

CRA credit and affiliate lending. CBA supports a clarifying Q&A that addresses the counting of originations and purchased loans by institutions and their affiliates.

CBA appreciates this opportunity to submit these comments. We commend the Agencies for these revised and new questions and answers. They are very helpful because they provide more clarity, and we encourage these kinds of regulatory efforts. If you have any questions, please contact the undersigned.

Respectfully submitted,

Leland Chan
SVP/General Counsel