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March 9, 2009

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

Jennifer J. Johnson, Secretary
Board of Governors of the
Federal Reserve System
20th Street & Constitution Avenue, NW
Washington, DC 20551
Attention: Docket No. OP-1349

Office of the Comptroller of the Currency
250 E Street, SW, Mail Stop 1-5
Washington, DC 20219
Attention: Docket ID OCC-2008-0027

Regulation Comments,
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Attention: OTS-2008-0022

Re: Proposed Interagency Questions and Answers Regarding Community Reinvestment

Dear Sir or Madam:

The Independent Community Bankers of America (ICBA)¹ welcomes the opportunity to comment on the interagency proposal to update the guidance used by banks and others for complying with the rules that implement the Community Reinvestment Act (CRA). The CRA rules are interpreted primarily through the *Interagency Questions and Answers Regarding Community Reinvestment* which provides guidance for use by agency personnel, financial institutions and the public. The Office of the Comptroller of the

¹*The Independent Community Bankers of America represents nearly 5,000 community banks of all sizes and charter types throughout the United States and is dedicated exclusively to representing the interests of the community banking industry and the communities and customers we serve. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever-changing marketplace.*

With nearly 5,000 members, representing more than 20,000 locations nationwide and employing nearly 300,000 Americans, ICBA members hold \$1 trillion in assets, \$800 billion in deposits, and \$700 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

Currency (OCC), Board of Governors of the Federal Reserve, Federal Deposit Insurance Corporation (FDIC) and Office of Thrift Supervision (OTS) (“the agencies”) proposed for comment one new question and answer that would provide examples of how a financial institution can determine that community services it provides are targeted to low- and moderate-income individuals, and two revised questions and answers to allow pro rata consideration in certain circumstances for an activity that provides affordable housing targeted to low- or moderate-income individuals. These proposed questions and answers were published with the final Interagency Questions and Answers Regarding Community Reinvestment that were originally proposed on July 11, 2007.

ICBA has reviewed the three new proposed questions and answers and has received feedback from our membership. Our comments are included below.

Q&A § ____.12(g)(2)-1: Proposed New Q&A: Community Services Targeted to Low- or Moderate-Income Individuals

The agencies are proposing a new question and answer that will provide examples of ways an institution, which provides community services, could determine the community services are targeted to low- and moderate-income individuals when the institution does not know the actual income of the individuals.

ICBA Position. ICBA supports this proposed question and answer, but recommends the agencies make clear that this list of examples is illustrative and not exclusive, because there are certain to be other ways a financial institution could determine whether community services are offered to low- or moderate-income individuals that are not included on this particular list. Instead of listing every possible example, or risk including an incomplete list of examples, the agencies should include a statement in the question and answer which explains that the list is illustrative and is not an exclusive list.

Q&As § ____. 12(h)-8 and § ____.42(b)(2)-3: Proposed Revised Q&As: Primary Purpose of Community Development

The agencies are also proposing to revise two questions and answers to allow consideration for an activity that provides some affordable housing targeted to low- or moderate- income individuals, but where it would not be deemed to have a primary purpose of community development measured by a majority of the entire activity’s benefit or dollar value, or by relying on the express purpose of the activity. This would allow activities related to the provision of mixed-income housing, such as in connection with a development that has a mixed-income housing component or an affordable housing set-aside required by federal, state or local government, to be eligible for consideration as an activity that has a “primary purpose” of community development at the election of the institutions. In these cases, an institution would receive pro rata consideration for the portion of the activity that helps to provide affordable housing to low- or moderate-income individuals.

ICBA Position. ICBA supports these revised questions and answers, and generally believes the agencies' proposed revision may help spur the construction and rehabilitation of housing for low- and moderate income individuals because it would provide a wider range of community development projects a bank could participate in, and would more accurately reflect a bank's efforts to comply with CRA. This revision would be especially helpful to smaller banks located in communities that do not otherwise have the large demand for community development projects.

ICBA also believes the special pro rata consideration should not be restricted to instances where a governmental entity requires a set-aside of a certain number or percentage of units as housing affordable for low- or moderate-income individuals, as opposed to the voluntary designation of low- and moderate-income units by a developer. Allowing voluntary designation would encourage more developers to participate in community development projects, and any exclusion of voluntary efforts would be counterproductive with the goals of CRA.

In addition, for purposes of reporting, ICBA believes financial institutions should have the flexibility to report a proportional share of the funds based on the percentage of set-aside units, because it would be less complicated to report a proportional share and using the percentage of set-aside units would be easier to measure and calculate for reporting purposes.

Finally, ICBA believes financial institutions should be able to receive pro rata treatment for loans or investments with other community development purposes and pro rata treatment should not apply only to affordable housing. This is especially important for banks located in rural areas where there is often not the demand or structures in place to accommodate affordable housing programs and it would be helpful for these institutions to have more options for community development projects. Broadening this interpretation would encourage more banks to participate in community development and would more accurately demonstrate their contributions to their communities. Furthermore, ICBA does not believe this change in policy would lead to unjustifiable inflation of community development activities. While we believe it may stimulate the level of interest among community banks, this would certainly not be to the extent it would be considered inflationary.

ICBA welcomes the agencies' continued and ongoing attention to CRA and welcomes the opportunity to continue working with the agencies on streamlining the requirements and eliminating unnecessary burdens. If you have any questions about our letter or need additional information, please do not hesitate to contact me at 202-659-8111 or by email at Elizabeth.Eurgubian@icba.org.

Sincerely,

/s/

Elizabeth A. Eurgubian

Regulatory Counsel