

February 1, 2021

Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Docket No. R-1723 RIN 7100-AF94
Via email to regs.comments@federalreserve.gov

Dear Ms. Misback:

The CRA Qualified Investment Fund (CRA Fund) has assisted approximately 500 banks with access to qualified community development investments, in a safe and sound manner, through over 1,500 CRA examinations since 1999. These banks range in size and sophistication from the largest money center banks to small community banks. We have a lengthy record of success – in over two decades we have invested approximately \$10 billion in vital community development investments on behalf of banks and other impact investors.

As President and Chief Operating Officer for Community Capital Management, Inc., the registered investment advisor to the CRA Fund, I appreciate the opportunity to provide substantive and constructive comments to assist the Federal Reserve Board (FRB) in updating its CRA rule to improve transparency while not weakening its primary purpose of helping low- and moderate- income (LMI) people and communities access credit in a safe and sound manner. On behalf of the CRA Fund, we provide the following comments and recommendations related to the FRB’s recent Advanced Notice of Proposed Rulemaking (ANPR).

Affordable Housing and Mortgage-Backed Securities (MBS)

1. MBS are a valuable investment option.

We support the FRB’s recognition of the value of MBS, which help to meet the need for affordable housing, while improving lender and market liquidity. The ANPR states that the “Issuance of qualifying MBS can improve liquidity for lenders that make home mortgage loans to LMI borrowers, increasing the capacity of these lenders to make more loans that are needed in the community.”ⁱ

Our twenty-plus years of experience have convincingly demonstrated that targeted MBS are a valuable option for banks to meet their CRA obligation. They are popular because they are safe, widely available, and provide positive CRA consideration. In some markets they are one of the only options. MBS help make affordable housing loans available.

Indeed, it has long been the practice of the regulators to consider targeted MBS as qualified investments provided the underlying mortgages were made to LMI borrowers.ⁱⁱ In its “CRA Investment Handbook” the Federal Reserve Bank of San Francisco summarized the value of CRA-qualified MBS as follows:

“Mortgage-backed securities (MBSs) are a popular vehicle among financial institutions looking to invest in their own communities. Community Reinvestment Act (CRA) officers and other bank



investment officers appreciate the return and safety that MBSs provide relative to other securities. They also appreciate that they are widely available compared with other qualified investments. Moreover, bankers today find that CRA-qualified MBS can typically provide a respite from concerns over the disruptions facing the mortgage markets and the questions surrounding the various mortgage products and underwriting standards.

For decades, mortgage-backed securities have played a crucial role in housing finance in the United States, making financing available to home buyers at lower costs and facilitating the availability of funds throughout the country. Investors include corporations, banks and thrifts, insurance companies, and pension funds. MBSs are popular because they provide a number of benefits to investors, including liquidity, yield, and capital management flexibility.”ⁱⁱⁱ

2. Repeated sales of MBS do not provide substantive community benefit.

The ANPR also indicates that some stakeholders have voiced concern about the potential for banks to purchase MBS just prior to their CRA examinations and then sell them shortly afterwards to another bank, which has little positive impact in their communities. We offer the following recommendations to address this concern:

Recommendations:

- Limit CRA consideration to primary-issuance MBS, whether purchased directly or through a fund that has purchased primary-issuance MBS
- Encourage banks to hold MBS, and other qualifying community development activities, for longer time periods by:
 - Including consideration of current book value of prior period qualifying community development activities
 - Refraining from the application of any type of “multiplier” to the dollar value of qualifying activities

List of Qualified Activities

1. An illustrative list would help institutions identify qualifying activities.

We support the FRB’s proposal to publish an illustrative, non-exhaustive list of community development activities that meet the requirements for positive CRA consideration.

Banks employ a variety of investments to help meet their CRA obligation. Investments may be made directly or indirectly – through a fund. For example, investments may be made in nationwide funds that ear-mark specific qualifying activities in investors’ assessment areas for positive CRA consideration. The Q&A guide banks in identifying and documenting investments in these funds as follows:



- The direct or indirect nature of a qualified investment does not affect whether an institution will receive consideration under the CRA regulations because the regulations do not distinguish between “direct” and “indirect” investments. Q&A____.23(a) – 1
- National funds “are important sources of investments in low- and moderate-income and underserved communities throughout the country and can be an efficient vehicle for institutions in making qualified investments that help meet community development needs.” Q&A____. 23(a) – 2
- Agencies will consider “any information provided by a financial institution that reasonably demonstrates that the purpose, mandate, or function of the fund includes serving geographies or individuals located within the institution’s assessment area(s) or a broader statewide or regional area that includes the institution’s assessment area(s). Typically, information about where a fund’s investments are expected to be made or targeted will be found in the fund’s prospectus, or other documents provided by the fund prior to or at the time of the institution’s investment, and the institution, at its option, may provide such documentation in connection with its CRA evaluation.” Q&A____. 23(a) – 2

Recommendation: Include on the list examples of qualified activities related to community development investments in national funds to:

- Prevent doubt about the qualification, value, and existence of such investments to help banks meet their community development goals
 - Reaffirm existing interagency guidance on documenting benefit to assessment areas, including the use of earmarking to benefit facility-based or deposit-based assessment areas
 - Assure banks that such investments will be acceptable in the event the FRB adopts designated areas of need, such as economically distressed areas
 - Reinforce current exacting documentation standards
2. While the official interagency guidance, in the format of Questions and Answers (Q&A), contains many examples of qualifying community development activities, it is not structured in an easy-to-follow format.

Recommendation: Ensure the list of qualifying community development activities incorporates examples of qualified investments and community development loans/services from the Q&A.

3. A process should be established to encourage institutions and other interested parties to provide information about qualifying activities.

We believe it would be appropriate for the FRB to periodically review and update its proposed list of qualified community development activities to ensure more transparency and to provide examples of new activities that will assist banks in meeting their CRA obligations.



Recommendation: Establish a process through which interested parties may request the addition of community development activities to the illustrative list, similar to the process adopted by the Office of the Comptroller of the Currency.

Summary:

Bank investment in agency-targeted MBS – which has increased access to housing credit and investment liquidity in a safe and sound manner – have contributed greatly to the tremendous success that is the CRA. CRA modernization should leverage that success and not jeopardize it.

An illustrative, non-exhaustive list of community development activities that meet the requirements for positive CRA consideration would be a welcome tool; it should include a process for regular updates.

Thank you for considering these comments.

Sincerely,



Alyssa Greenspan
President and Chief Operating Officer
Community Capital Management, Inc.
Registered Investment Advisor to the CRA Qualified Investment Fund

ⁱ 85 FR 66445

ⁱⁱ § ____ .12(t)—2: *Are mortgage-backed securities or municipal bonds “qualified investments”?* A2. As a general rule, mortgage-backed securities and municipal bonds are not qualified investments because they do not have as their primary purpose community development, as defined in the CRA regulations. Nonetheless, mortgage-backed securities or municipal bonds designed primarily to finance community development generally are qualified investments. Municipal bonds or other securities with a primary purpose of community development need not be housing-related. For example, a bond to fund a community facility or park or to provide sewage services as part of a plan to redevelop a low-income neighborhood is a qualified investment. Certain municipal bonds in underserved nonmetropolitan middle-income geographies may also be qualified investments. See Q&A § ____ .12(g)(4)(iii)—4. Housing-related bonds or securities must primarily address affordable housing (including multifamily rental housing) needs of low- or moderate-income individuals in order to qualify. See also Q&A § ____ .23(b)—2.

ⁱⁱⁱ CRA Investment Handbook Federal Reserve Bank of San Francisco www.frbsf.org/cdinvestments

