capital for healthy
families & communities

May 17, 2013

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Re: Docket No. OP-1456

To Whom It May Concern:

The Low Income Investment Fund (LIIF) appreciates the opportunity to submit comments on the Proposed Revision to the Existing Community Reinvestment Act (CRA) Interagency Questions and Answers (Q&A).

LIIF is dedicated to creating pathways of opportunity for low-income people and communities. Serving the poorest of the poor, LIIF is a steward for capital invested in community-building initiatives. In so doing, LIIF provides a bridge between private capital markets and low-income neighborhoods. To date, LIIF has invested $1.2 billion to create 60,700 homes, 191,000 child care slots, 62,000 spaces in schools, and 6.7 million square feet of community space. These investments have served 1.3 million people in low-income communities, providing an estimated monetary benefit to those families and communities of $24.9 billion. Indeed, LIIF exemplifies the spirit of community development financial institutions (CDFIs) making a difference in this nation's low-income communities, propelled in large part by investments through CRA.

LIIF is encouraged by the Agencies' efforts to revise the existing Q&A to better represent the needs of communities served by CRA. We are pleased to see the statement, "This notice addressing several community development issues is intended to be the Agencies' first step to addressing substantive and significant issues raised by commenters." Given the testimony the agencies heard in 2010 about the need to revise the CRA regulations to make CRA relevant to current banking markets, we support broader revisions to the CRA regulations, as well as these "first steps." As such, we would like to comment on the following items in the Proposed Revision of the CRA Interagency Q&A:

**Proposed Revisions to Existing Q&As**

I. *Community Development Activities Outside an Institution's Assessment Area(s) in the Broader Statewide or Regional Area that Includes the Institution's Assessment Area(s) [____.12(h)-6 & ____.12(h)-7]*

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LIIF agrees that the proposed revisions under Section may facilitate additional investment in statewide or regional funds, particularly when a CDFI is providing technical assistance or underwriting projects not traditionally served by financial institutions, or when additional public or philanthropic resources are invested in the fund that make it more cost-effective for financial institutions to participate in the fund. The New York State Healthy Food and Healthy Communities (HFHC) Fund provides a recent example of LIIF's involvement with a statewide fund. One national financial institution has invested in the HFHC Fund beyond its CRA Assessment Area of New York City, but the proposed revision to the Q&A could create the potential for more financial institutions to also participate in the HFHC Fund.

The Agencies correctly note that consideration for such activities should be in addition to, not in lieu of or to the detriment of, activity in current assessment areas. LIIF also attracts capital for innovative local funds, such as the Bay Area Transit-Oriented Affordable Housing (TOAH) Fund, which are prime investment opportunities for financial institutions within their current assessment areas.

*I. Investments in Nationwide Funds [____.23(a)-2]*

LIIF agrees that the proposed changes under Section for nationwide funds makes a sensible simplification that eliminates the need for "side letters" to document bank investments in projects in specific assessment areas. We look forward to working with the agencies on more substantial regulatory changes on assessment areas to bring CRA compliance more fully into the era of nationwide lending and deposit taking.

*II. Community Services Targeted to Low- or Moderate-Income Individuals [____.12(g)(2)]*

LIIF agrees that the proposed revisions under Section II to the definition of low- or moderate-income individuals for the purposes of the services test to include schools with a majority of students who receive free or reduced-price lunch and individuals eligible for Medicaid could be useful proxies to demonstrate that services benefit low- and moderate-income people without requiring community organizations to obtain actual income data. There are other means-tested federal programs that could also serve as useful proxies, such as residency in public housing or Low Income Housing Tax Credit developments, or receipt of Section 8 Housing Choice Vouchers, Supplemental Nutrition Assistance Program (SNAP) benefits, Temporary Assistance for Needy Families (TANF) benefits, or Supplemental Security Income (SSI).

*III. Service on the Board of Directors of an Organization Engaged in Community Development Activities [____.12(i)-3]*

LIIF agrees that the proposed revisions under Section IV are useful clarifications in the how service on a community development organization's board of directors should be treated. The proposed Q&A includes a useful list of activities, but it should be more inclusive. Assisting an organization with human resources, information technology, communications and marketing, and consumer compliance are also practical and meaningful ways a financial institution could help a community organization grow and develop. They should also count for the services test.

**Proposed New Questions and Answers**

I. *Qualified Investments [____.12(t)-9]*

The proposed new Q &A __.12(t)-9 on Qualified Investments in which a financial institution allows the recipient to use the interest, but not the principal, may need some revision to accomplish its goal. It seems to be a reasonable restriction on giving financial institutions CRA credit for funds that cannot be used by community groups, but we urge you to look carefully at how it is drafted to ensure that it does not restrict genuine community development activities. If a financial institution makes an investment in a CDFI, for instance, and the funds will be deployed over a number of years, the CDFI may initially invest the bank's funds in safe investments like Treasury securities. If the CDFI is allowed to eventually use the entire investment for community development purposes, it does not make sense to restrict the CRA credit only to the interest on the securities.

LIIF agrees with the position and language additions that the Opportunity Finance Network (OFN) has offered. In its comment letter, OFN proposes that the agencies consider whether the agreement between the financial institution and the recipient organization stipulated whether the investment was to be used for community development purposes. If the agreement calls for the recipient to use the Qualified Investment for community development purposes, the financial institution should receive full consideration for its investment. To accommodate the common practice of banks making Qualified Investments in CDFIs and similar organizations, the Q&A for ___.12(t)-9 might read (additional language in italics):

> *"Examiners will give quantitative consideration for the dollar amount of funds that benefit an organization or activity that has a primary purpose of community development. If an institution invests in (or lends to) an organization that, in turn, invests those funds in instruments that do not have as their primary purpose community development, such as Treasury securities, and* ***the agreement between the institution and the recipient requires that the recipient*** *uses only the income, or a portion of the income, from those investments to support the organization's community development purposes, the Agencies will consider only the amount of the investment income used to benefit the organization or activity that has a community development purpose for CRA purposes.*
>
> ***If the agreement between the institution and the recipient requires that the investment be used for community development purposes, then the Agencies will give consideration for the full amount of the investment even if the recipient, in turn, invests the funds and earns income from that investment."***

II. *Community Development Lending in the Lending Test Applicable to Large Institutions [____.22(b)(4)-2]*

Proposed new Q & A .22(b)(4)-2 addresses an inconsistency in supervisory policy with regard to the inclusion of community development activity in the lending test rating. The proposal is clear

that community development can have a positive, neutral or negative impact on lending test ratings. This is a sensible change that makes a consistent policy across the Agencies and gives community development more weight in the lending test rating. In LIIF's 2010 testimony, we encouraged the Agencies to go much further than this and create a community development test under CRA. We understand that such a change is beyond the scope of these changes to the Q&A but, again, we encourage the Agencies to move forward expeditiously to consider more sweeping modernization of the CRA regulations.

**Redesignation of Existing Question and Answer Without Substantive Change**

*l. Activities With Minority- and Women-Owned Financial Institutions and Low-Income Credit Unions [____.21(f)-1]*

LIIF agrees with OFN's recommendation that the Agencies apply the same consideration to partnerships with CDFIs that they extend to Qualified Investments in minority- and women-owned institutions and low-income credit unions. In commenting in 2007, OFN stated that:

> *"Opportunity Finance Network agrees with the Agencies in applying a 'broader geographic criterion when evaluating capital investments, loan participations, and other ventures undertaken by that institution in cooperation with minority- or women-owned institutions or low-income credit unions...' if the Agencies apply the criterion to community development financial institutions (CDFIs) in addition to the other groups included. We urge the Agencies to include CDFIs since many CDFIs, especially National CDFIs, meet the credit needs of local communities on a state or regional basis. CDFIs are a recognized financial intermediary in the CRA and they are specifically highlighted in Sec. ____.12(h)-1 as an example of community development loans."*

In closing, LIIF commends the Agencies for continuing the thorough review of the CRA rules that began in 2010. We look forward to working with you as you move forward on this critical process. Please contact LIIF's Senior Vice President for Strategic Development and Corporate Affairs, Brian Prater, at bprater@liifund.org if you have any questions about our comments.

Sincerely,

Nancy O. Andrews
President and CEO