COMMUNITY REINVESTMENT ACT: INTERAGENCY QUESTIONS AND ANSWERS REGARDING COMMUNITY REINVESTMENT

DEPARTMENT OF THE TREASURY
Office of the Comptroller of the Currency
Docket ID OCC-2013-0003

FEDERAL RESERVE SYSTEM
Docket No. OP-1456

FEDERAL DEPOSIT INSURANCE CORPORATION

AN ASIAN AMERICAN/UNDERSERVED MINORITY PERSPECTIVE ON CRA REVISIONS

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"CRA has done much to improve the community, but it must be used today and in the future to address the crises of the day, such as two million homeowners facing foreclosure and the absence of any new community banks being established, particularly in underserved communities," Faith Bautista, president and CEO, National Asian American Coalition.

The National Asian American Coalition submits its remarks based on a decade of experience with the Community Reinvestment Act (CRA), the primary federal banking regulators and interaction with more than three dozen financial institutions from small minority community based banks to the "too big to fail" banks.

We commend the Office of the Comptroller of the Currency, the Federal Reserve and the Federal Deposit Insurance Corporation for reexamining CRA rules and practices that may have been appropriate in the early years of its 35-year history.

Our initial comments are intended to stimulate innovative and creative investments, lending and servicing by both small community banks and "too big to fail" banks. They are also intended to be of assistance to what is an endangered species, particularly as to the Black community and new immigrant groups. See, for example, the decline of Black owned banks, the surprisingly limited growth of Latino owned banks and the absence of Vietnamese, Filipino and a broad range of other Asian American owned banks. See also, the precipitous decline from an average of over 250 new banks from 2004 to 2007, to an average of three per year beginning in 2011 (see *American Banker* of April 2, 2013, "Planned Amish Country Bank a De Novo Bellwether").

I. Unduly Limited Credit for Innovative CRA Activities

The vast majority of CRA credit is given for non-innovative lending services and investments. And a vast majority of these CRA credits disproportionately benefit limited assessment areas that may have once made sense when banks were restricted to just one state or one city.

In the comments below, we support giving "extra favorable" or "double" CRA credit for innovative lending, investments and services that (a) uniquely benefit particularly undeserved communities; (b) leverage scarce resources; and/or (c) address specific emergency matters, such as, for example, the continuing housing crisis and homeowners facing foreclosure.

We would therefore urge that particularly innovative investments receive credit both on the lending and investment tests. Alternatively, these investments should be given double credits within their appropriate category.

II. Specific Comments

A. Extra CRA Credit for innovative investments

The housing crisis has continued since 2007. Nonprofit groups, as a result of a lack of credit and financial resources, are unable to bid for Real Estate Owned (REO) properties. Therefore, as demonstrated in the *Wall Street Journal* of March 1, 2013, "Cash Course in Housing Economics," a very significant percentage of homes offered for sale are purchased by investors who have no interest in homeownership or neighborhood stability. And to a very large degree, inadvertent government policies encourage investor purchasers rather than nonprofit purchasers of REOs.

If a financial institution helps change this unhealthy dynamic by, for example, providing a very large line of credit at low interest rates to a nonprofit to purchase the REOs, rehabilitate them at a quality level and subsequently sell, not to the highest bidder, but to low-moderate-income families or returning veterans, a financial institution should be provided with very special extra CRA credit.

An innovative institution should receive credit on both the lending and investment side. The dollar value of the credit should take into account the importance and difficulty of what is being accomplished in contrast to, for example, a Wells Fargo originating a plain vanilla 30-year fixed rate mortgage to a middle class white purchaser with an 800 credit score. See, for example, *Wall Street Journal* of March 25, 2013, "Investors Pile Into Housing, This Time as Landlords." As the *Wall Street Journal* points out, "Here in Orange County [California], nearly every home listed for less than $400,000 'is being pursued by institutional investor capital.'" That is, no low-moderate-income family can purchase a home in Orange County based upon a foreclosure. Similar problems exist, as pointed out by the *Wall Street Journal*, throughout California and many other states.

B. Decline of Black Owned Banks, Surprisingly Limited Growth of Latino Owned Banks and Total Absence of Asian American Owned Banks for Many Asian American Subgroups

Today, Black owned financial institutions are an endangered species. Their <u>aggregate</u> assets (under $7 billion) are less than 1% of the assets of <u>any</u> of the "too big to fail" banks.

Similarly, despite the Latino population now exceeding 55 million, there are virtually no Latino owned banks in the nation. For example, in California, home to 16 million Latinos, no Latino owned bank has even $200 <u>million</u> in assets.

And shockingly, despite the government's many well-intentioned efforts to assist the development of minority owned banks, there is today not one Vietnamese American or Filipino American owned bank either in California or in the nation. This has occurred despite there being more than two million Vietnamese Americans and almost four million Filipino Americans residing in the U.S. and almost half residing in California.

Similarly, due to failed policies and unintentional barriers, there are no Cambodian American, Laotian American, Burmese American, Hmong American or other smaller Asian American sub-ethnic banks in California or the nation (see *American Banker* of April 2, 2013, "Planned Amish Country Bank a De Novo Bellwether").

Informal polls by the National Asian American Coalition demonstrate that all the aforementioned populations wish to have a bank that is dedicated to their special needs, including language and cultural needs.[1]

Efforts by large and "too big to fail" banks to assist in the creation of banks within the underserved Asian American community should be given very special credit and assistance.[2] Similarly, efforts by large institutions to assist the grossly underserved Black and Latino communities should be given special encouragement and CRA credit.

For example, we would urge that all of the federal regulators convene together all of the major financial institutions through an "all regulator" meeting within 90 days of comments being closed on this matter. The purpose would be to discuss mechanisms to jumpstart the creation and growth of minority owned institutions that serve underserved communities.

C. Preventing Artificially Narrow Assessment Areas

Today, many financial institutions, the best example of which is Capital One, refuse to serve the national service area that a national bank should be required to serve. As the National Community Reinvestment Coalition and the California Reinvestment Coalition have pointed out, up to 15% of all deposits held by Capital One come from California. Despite this, less than 1% of Capital One's philanthropy and less than 1% of its community investments are in California. For purposes of full disclosure, please note the National Asian American Coalition's role in strongly opposing Capital One's expansion without CRA requirements and the support it gave to the positions of the National Community Reinvestment Coalition and the California Reinvestment Coalition.

[1] At the request of the National Asian American Coalition, the Cambodian American and Burmese American communities will be conducting surveys in mid-April on the desire of their communities to

[2] An example of this is that the CEO of US Bancorp, Richard Davis, three years ago recognized the absence of any Filipino American owned bank in the nation despite the population of Filipino Americans being four million. He therefore developed a branch in a Filipino American shopping center that was dedicated to reaching out and serving the Filipino American community, although it was open, of course, to all customers. The branch employed staff with the linguistic and cultural skills, for example, to specially serve this market. However, we are unaware that this bank or any other bank replicating such an innovative approach has ever received any special CRA credit.

To a somewhat similar degree, see the artificially narrow CRA assessment area at Charles Schwab. With almost $60 billion in assets, it is clearly a national bank and a bank that, under the stress test, is considered a "too big to fail" bank. Yet, historically, the vast percentage of its CRA investments, philanthropy and creativity is dedicated to the artificially narrow Reno-Nevada assessment area. A similar problem relating to underserved communities exists as to Delaware-based banks that serve a state one-fiftieth (less than 2%) the size of California.

We propose a substantial broadening of assessment areas to allow any bank with $50 billion or more in assets to receive comparable CRA credit for any investments within its state or region. And we propose that any bank at $50 billion or more in assets, no matter where it is located, be permitted to treat the nation as a whole as its assessment area and be subject to scrutiny from outside its conventional narrow assessment area. For example, SunTrust would also have an obligation to California.

The primary exception to this national responsibility would be if a bank can demonstrate evidence that there is a unique leverage benefit to servicing a historically narrower region that has traditionally been its primary assessment area.

D. Other Issues such as Basel III

We are concerned that too many apparently laudable federal efforts aimed at ensuring economic stability could be counterproductive to innovative CRA programs. The 1990s successfully encouraged many such innovative CRA programs and many community banks prospered.

Regarding the proposed Basel III requirements and their potential negative impact on positive CRA activities, please see the National Asian American Coalition's October 3, 2012 remarks on regulatory capital rules filed with the Department of Treasury, Federal Reserve and the FDIC. The title of our remarks, "Unless Basel III is Simple and Understandable, It Will Never be Effectively Enforced," expresses our concern.[3]

As set forth in these filed remarks on the impact of Basel III on future housing opportunities for those who live from paycheck-to-paycheck, please see the following statement:

> *"With no exceptions, and we stress no exceptions, all U.S. banks with $50 billion or more in assets have failed to effectively originate home loans to the almost two-thirds of the population defined as 120% or below median income for the year 2011 or for the years 2009 and 2010.*
>
> *"In significant measure, this is attributable to the present Basel requirements and the fear of Basel III capital requirements. Specifically, many banks have informed us of the fear that additional capital will be required under Basel III to address bank home loans that are not considered qualified mortgages even though these mortgages are relatively risk free."*

[3] Full comments available at http://www.federalreserve.gov/SECRS/2012/October/20121004/R-1442/R-1442_100312_108551_370329798820_1.pdf.

III. Conclusion

The author of CRA, the late Senator William Proxmire, would be both pleased and surprised at the development of CRA since its passage in 1977. Senator Proxmire would applaud that CRA is now part of the DNA of many banks and the spirit of the federal regulators. But Senator Proxmire would be deeply disappointed that the fundamental changes in banking and the crises created in the banking environment remain largely unaddressed by antiquated CRA evaluation and assessment practices.

Respectfully submitted,

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