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Capital for Communities –
Opportunities for People®

May 14, 2013

Robert deV. Frierson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Robert E. Feldman
Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Office of the Comptroller of the Currency
250 E Street, SW
Mail Stop 2-3
Washington, DC 20219

RE: Community Reinvestment Act: Interagency Questions and Answers Regarding Community Reinvestment

To Whom It May Concern:

On behalf of Community Reinvestment Fund, USA, (CRF), I appreciate the opportunity to share our views on proposed changes and clarifications to the Interagency Questions and Answers (Q&A) regarding Community Reinvestment published in the *Federal Register* on March 18, 2013. CRF is a strong proponent of the Community Reinvestment Act (CRA) and has submitted numerous comment letters and testimony on a wide range of issues related to the CRA. This Act plays a critical role in ensuring that underserved communities and their residents have access to financial resources especially during these difficult econonomic times. We commend the Federal Bank Supervisory Agencies (Agencies) for their on-going efforts to refine CRA guidance.

BACKGROUND

Community Reinvestment Fund is a national CDFI and a leader in channeling resources from the capital markets to support community development financing activities. Our mission is to improve the lives and strengthen communities through innovative finance. Through our financing activites we create long-term sustainable jobs, expand the supply of affordable housing, and strengthen the social ecosystem that supports low-income communities. CRF is best known for operating the first secondary market for small business and affordable housing loans to provide liquidity to CDFIs and other community-based lenders. Equally important, we pioneered the development of securities collateralized by the community development loans we purchase to help mainstream institutional investors (banks, pension funds, and insurance companies) provide capital for projects and businesses that revitalize distressed communities. Moreover, CRF's CEO serves on the Advisory Committee of the Center for Community Development Investments at the Federal Reserve Bank of San Francisco. To date, we have issued nineteen series of Community Reinvestment Fund Revenue Notes totaling $325.3 million and three securities backed by affordable housing loans. Four of these note issuances are rated debt offerings.

CRF also played an instrumental role in creating the New Market Tax Credit (NMTC) and has developed loan products that deliver the benefits of this tax credit to operating businesses. Together with its affiliate, National New Markets Tax Credit Fund, Inc., (NNMTCF), CRF has become one of the largest allocatees in the country, receiving tax credit allocations of $749.5 million and investing $52.5 million on behalf of other allocatees. These resources have been used to make flexible loans for small and medium-sized business and nonprofit borrowers located in low-income communities throughout the country. Since 2003, we have funded 370 NMTC loans totaling $679.4 million in 187 cities in 34 states.

Over the past 25 years, CRF and its affiliates have delivered more than $1.4 billion in capital to small businesses, community facilities and affordable housing projects located in more than 785 communities across the country. In partnership with 161 local lending partners, we have funded 2,400 loans in 47 states and the District of Columbia. Working through its local lending partners, CRF has directly assisted more than 600,000 people, including financing 18,000 housing units, 3,400 childcare slots, 9,800 slots at educational facilities, financing over 1,300 small businesses, creating or retaining 69,000 jobs and funding community facilities that serve over 500,000 people.

CRF would like to offer comments on a number of the Agencies proposed changes to the CRA Interagency Q&As.

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)

CRF supports the Agencies' efforts to further clarify that community development activities that benefit an institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s) *will be* considered for purposes of evaluating its CRA performance. Although the revisions to Q&A §__.12 (h) – 6 and Q&A §__.12 (h) – 7 convey the Agencies' intent that these activities be factored into an institution's CRA evaluation(s), it is not certain this clarification will provide an incentive for banks to increase their community development activities or expand their opportunities to engage in community development activities. Such an increase may depend on the opportunities that exist within a given state or region and/or be a function of the expertise and goals of an individual bank. Nonetheless, it is extremely helpful for both financial institutions and CDFIs to have a clear understanding of the Agencies' intent as uncertainty regarding the CRA eligibility of certain activities discourages banks from participating in community development lending, investing, or service opportunities.

With regard to Q&A §__.12 (h) – 6, we agree with commenters who indicated the Agencies need to define what they mean by "adequately addressing the community development needs of its assessment area(s)". Eliminating this language removes this uncertainty but it is not apparent that the new language is sufficiently clear and may be redundant. For instance, we assume *all* community development activities must be conducted in a safe and sound manner reflecting the capabilities of the institution. Instead, it might be helpful to provide additional language describing *how* an institution's performance will be considered, including *how or what criteria* examiners will use to assess the community development needs and opportunities in its assessment area(s), its business capacity and focus, and its past performance. An example might serve to illustrate how examiners would evaluate a bank's community development activities that fall outside of its assessment area(s) but within a broader statewide or regional area that includes its assessment area(s).

Investments in Nationwide Funds

As the organization that pioneered the development of community development securities, CRF appreciates the value that nationwide funds offer financial institutions in fulfilling their CRA requirements. We are deeply committed to expanding the use of these vehicles as a way to increase investment in low- and moderate-income communities. In our comment letter dated August 31, 2010[1] we provided detailed recommendations as to how these funds should be treated under the CRA regulations. Specifically we requested bank supervisory agencies:

- provide flexibility to ensure bank investors in nationwide funds receive full CRA credit for their investments, especially because these funds offer investors the benefits of diversification and efficiency while allocating resources to communities in need;
- recognize these funds afford low- and moderate-income communities with access to innovative financial vehicles for delivering capital and credit;
- provide the same treatment under the Community Development Test for wholesale and limited purpose institutions making a "*qualified investment in a fund that invests in projects nationwide and which has a primary purpose of community development;*"[2] and
- simplify the documentation requirements for nationwide funds.

CRF *strongly supports* the proposed revisions to Q&A §__.23 (a)–2 and believes they will stimulate investment in nationwide funds thus helping financial institutions to meet their CRA obligations. By removing language that offers a fund the option to provide banks with documentation demonstrating earmarking, side letters, or pro-rata allocations related to their investments, the Agencies have provided distressed communities with an *equal opportunity* to attract investment through these innovative financial vehicles. As an issuer of community development securities, CRF has experienced first-hand the challenges and burdens associated with producing such documentation and understand it can be a disincentive for banks when considering an investment opportunity. In our earlier comment letter we noted, "*Existing documentation*

[1] See CRF's comment letter dated August 31, 2010, pg. 4, to all Federal Bank Supervisory Agencies regarding the Community Reinvestment Act regulations published in the Federal Register, Vol. 75, No. 120, June 23, 2010.

[2] Community Reinvestment Act; Interagency Questions and Answers Regarding Community Reinvestment; Notice, Federal Register, Vol. 75, No. 47, March 11, 2010, page 11661, §_.25 (e) -1.

requirements reduce the efficiency benefits of using pooled vehicles and limit the capital that could flow to communities particularly from national institutions that do not have a traditional geographic footprint." [3] We recommended bank investors be permitted to claim a pro-rata share of the overall fund for CRA purposes. Removing this documentation option reduces the paperwork burden on organizations offering nationwide funds as well as investor uncertainty as to whether they will receive CRA credit for their investment in the fund.

Nationwide funds may also be appropriate investments for regional or smaller institutions that have fulfilled their CRA requirements through lending, investing and services in their assessment area but seek additional CRA opportunities. While only a few banks may face such a situation, the Agencies should provide this option for institutions that have limited assessment areas and/or a robust portfolio of CRA activities but wish to make additional investments in low- and moderate-income areas.

We do not support creating a special category for investments in nationwide funds, and urge the Agencies to keep the guidance simple rather than introducing additional complexity into the evaluation process. Nationwide funds should be an eligible Qualified Investment option for financial institutions, particularly those with a national footprint or whose business model does not rely on a branch network (e.g. wholesale banks). In addition, banks looking to complement or augment their community development activities in their assessment area(s) may wish to add such investments to their portfolio and should not be discouraged from doing so.

In the same vein, we do not believe nationwide funds should be required to attribute specific states or assessment areas to particular investors. Such an approach would be a step back towards a system of earmarking projects or geographies to individual investors. For nationwide funds to be truly effective and efficient in delivering financial resources to underserved and/or distressed areas, they should be given maximum flexibility and the ability to reduce uncertainty as to whether an investment will qualify for CRA consideration.

Finally, CRF urges the Agencies to clarify one additional but important aspect related to nationwide funds. In addition to pooled vehicles, such as community development securities, national CDFIs should be considered to be nationwide funds for the purposes of the CRA. Financial institutions making Qualified Investments in CDFIs that lend or invest in a national market should receive full CRA credit for such investments. By definition, all CDFIs have a primary purpose of community development and those that are national in scope are implicitly engaged in financing activities that directly or indirectly benefit one or more of an institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s). Including language clarifying that *CDFIs whose in financing activities are national in scope are deemed to be nationwide funds* for the purposes of the CRA would stimulate additional investment in national

[3] Ibid, CRF's comment letter dated August 31, 2010, pg. 4.

CDFIs that are able to fill capital gaps and meet demand for credit in areas that are not able to attract resources or investment for vital community development activities.

Redesignated Q&A § __.21 (f) – 1

CRF wishes to reiterate a key recommendation included in our August 31, 2010 letter[4] that the Agencies provide CDFIs with the same CRA treatment applied to minority- or women-owned financial institutions and low-income credit unions. Banks should be granted CRA credit for all CDFI – related loans, investments and activities regardless of whether the CDFI is located or active in a bank's assessment area(s). As we noted in our earlier letter:

> Under the current regulations, banks may receive CRA credit for "capital investments, loan participations, and other ventures undertaken by an institution in cooperation with minority- or women-owned financial institutions and low-income credit unions (MWLIs) as long as these activities help to meet the credit needs of local communities in which MWLIs are located or chartered."[5] Banks may receive favorable CRA consideration even if the MWLIs are not located in or such activities do not benefit an institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s).[6] CDFIs have community development as their primary mission and are expert at delivering credit and capital to low-wealth communities. These organizations should be accorded the same treatment as MWLIs. Placing CDFIs on par with MWLIs would allow banks to make loans or investments in communities where they may not have a physical presence but where their resources would significantly contribute to the credit needs and economic well-being of its residents.

We strongly encourage the Agencies to put CDFIs on equal footing with MWLIs to ensure capital and credit reaches *as many* low- and moderate-income communities as possible by harnessing the capacity of these community-based institutions to deploy their resources in the very places the CRA is intended to serve..

Qualified Investments (Proposed New Q&A § __.12 (t)-9)

We wish to associate ourselves with the comments submitted by the Opportunity Finance Network (OFN) regarding the proposed new Q&A §__.12 (t)–9. CRF supports the approach outlined in OFN's letter so as to allow CDFIs the ability to prudently manage their balance sheet and liquidity needs while recognizing that these organizations deploy their resources over time and cannot always predict precisely when loans and investments will be made. We share the view that examiners should consider the agreement between a financial institution and a recipient organization to determine if a

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4 Ibid, CRF's comment letter dated August 31, 2010, pg. 3.

5 Community Reinvestment Act; Interagency Questions and Answers Regarding Community Reinvestment; Notice, Federal Register, Vol. 75, No. 47, March 11, 2010, page 11645, §____.12(g) – 4.

6 Ibid.

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Qualified Investment is intended to be used for community development purposes and if so, to grant the financial institution full credit for the investment under the CRA.

Conclusion

In closing, we thank the Agencies for their continued commitment to clarifying the CRA Interagency Questions and Answers. These questions are a vital source of guidance for both financial institutions and CDFIs seeking to leverage private sector resources. There is little doubt that CRA has been critical to stimulating lending and investment in distressed, underserved and disaster-stricken communities across the nation. We are grateful for the opportunity to share our views and recommendations as to how this guidance may be improved. Please do not hesitate to contact me with any questions regarding comments included in this letter.

Sincerely,

Frank Altman
President and CEO