SMITH NMTC
Associates, LLC

October 31, 2014

Robert deV. Frierson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551
Email: regs.commnts@federalreserve.gov

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW.
Washington, DC 20429
Email: comments@fdic.gov

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
Mail Stop 9W-11
400 7th Street, SW.
Washington, DC 20219
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Re: OCC Docket No. OCC-2014-0021
Board Docket No. OP – 1497
Community Reinvestment Act: Interagency Questions and Answers Regarding Community Reinvestment - Request for Comment

To Whom It May Concern:

In response to the Notice and Request for Comment published in Volume 79, Issue 175 of the Federal Register on September 10, 2014, below please find the comments of Smith NMTC Associates, LLC ("Smith NMTC"). Smith NMTC created the first national NMTC funded "for-sale" affordable housing model and is the largest single user of NMTCs for funding the development and sale of affordable housing. To date, Smith NMTC has used this model to fund $288,000,000 of NMTC investments in 82 nonprofit QALICBs in 30 states, resulting in more than 3,200 new Low Income homeowners.

The OCC, Board, and FDIC (the "Agencies") propose to clarify and supplement their Interagency Questions and Answers Regarding Community Reinvestment to address questions raised by bankers, community organizations, and others regarding the Agencies' Community Reinvestment Act (CRA) regulations.

Encouraging Institutions to Design More Innovative or Flexible Programs. Smith NMTC's comments are directed to the Agencies' request for comment regarding "innovative or flexible lending practices." In particular, Smith NMTC is supportive of the proposed revised Q&A § __.22(b)(5)–1 which proposes to expand the list of examples of innovative or flexible lending practices and which would explain that the examiners will consider whether and "to what extent" the innovative or flexible practices augment the success and effectiveness of the institution's lending program. In connection with this, Smith NMTC would like to offer its response to Question 7 which asks: "Is the proposed revised guidance sufficient to encourage institutions to design more innovative or flexible lending programs that are responsive to community needs?"

Incentivizing Institutions to Track Program Metrics and Success. Smith NMTC believes that institutions must be encouraged to design more innovative or flexible lending programs in order to make homeownership accessible to low to moderate income families. Without these types of innovative or flexible lending programs, these potential homeowners are precluded from realizing the dream of homeownership and all of the benefits that brings to their family and to the community in which they live. To encourage institutions to design these types of programs and to evaluate "to what extent" the innovative or flexible practices augment the success and effectiveness of the institution's lending program, Smith NMTC recommends that there be some sort of testing of methodology and commensurate incentive. Smith NMTC recommends that institutions be incentivized to keep track of what works and what doesn't with these types of lending programs so that a proven platform can be developed. Institutions should be incentivized to collect data on what makes a successful homeowner *vis a vis* these "innovative or flexible lending practices" and in particular, lending practices such as high touch loan servicing, review of alternative credit histories and pre and post purchase homeowner counseling and education. Smith NMTC submits that there should be measures and standards to determine what programs work best. Right now, there is no or little consistency through these types of programs and little research regarding best practices. Smith NMTC believes that if institutions were incentivized to record certain metrics of their programs, then more institutions would use these programs because they would have objective criteria to determine which aspects of these innovative or flexible practices will work best in their communities and with their consumers, thus creating a platform for successful homeowner/borrowers, and consequently a successful lending program.

Clarifying Use of Innovative or Flexible Lending Practices in Light of Dodd Frank Act. In addition, Smith NMTC has observed a disconnect between the desire to promote innovative or flexible lending practices and the requirements of Dodd Frank, including regulations relating to Qualified Mortgages and the Ability to Repay ("ATR") criteria. While Dodd Frank allows a creditor to consider alternative credit histories under the eight ATR underwriting considerations, it is our understanding that a resulting mortgage may not qualify as a Qualified Mortgage. We recommend further guidance be given to understand how lending institutions can use innovative or flexible lending practices without running afoul of the Qualified Mortgage rules. Without such guidance, lenders are disincentivized from offering innovative or flexible lending programs.

Thank you for the opportunity to submit our comments to the Community Reinvestment Act: Interagency Questions and Answers Regarding Community Reinvestment - Request for Comment. We appreciate your time and consideration. Please do not hesitate to contact us if you have any questions regarding our comments or if we can be of further assistance.

Sincerely,

SMITH NMTC ASSOCIATES, LLC

Jill M. Gilbert

Jill M. Gilbert, General Counsel