WOMEN'S BUSINESS DEVELOPMENT CENTER
Your growth is our *business*.

November 10, 2014

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
Mail Stop 9W–11
400 7th Street SW.
Washington, DC 20219

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
Federal Deposit Insurance Corporation
550 17th Street NW.
Washington, DC 20429

Re: Proposed Revisions to Existing CRA Q&As, 12 CFR _.24 (d)

The Women's Business Development Center appreciates the opportunity to comment on the proposed revisions in the hope that the final revisions will strengthen the services test and be used as part of a broader financial inclusion strategy and efforts to modernize the Community Reinvestment Act.

The Women's Business Development Center, serving women business owners in 9 Midwestern states, urges the Office of the Comptroller of the Currency, the Federal Reserve Board, and the Federal Deposit Insurance Corporation (the Agencies) to strengthen their proposed revisions to the Community Reinvestment Act (CRA) Questions and Answers (Q&As) regarding retail banking and community development in order to ensure that financial institutions adequately meet the needs of low- and moderate-income (LMI) people and women and minority owned businesses. Our response focuses on the questions that pertain to retail financial services. In particular, we urge the Agencies to:

- Focus on the retail financial services needs of LMI consumers and incorporate the principles below about the retail financial services needs of LMI consumers into the retail CRA Q&As;

- Assess the extent to which retail products and services offered by financial institutions are actually adopted by a broad range of LMI consumers;
- Recognize the importance of full-service branches in meeting LMI community needs;
- Require banks to offer safe and affordable small dollar loan products or secured credit cards to meet LMI consumers' need for emergency credit;
- Grant negative CRA credit to banks that engage in behaviors that undermine LMI people's access to a safe, fair, and affordable financial system;
- Allow CRA credit only for products and services adopted by LMI people in the bank's assessment area;
- Admit that revisions to the CRA Q&As are not sufficient to address the major changes in the financial services industry and work to make the necessary changes in the law and regulations (as recommended in the 2010 public hearings), including redefining assessment areas based on areas in which banks conduct significant business, regardless of branch and ATM locations.

About the Women's Business Development Cednter

The Women's Business Development Center is the oldest, largest and most comprehensive women's business assistance center in the U.S. serving women business owners in nine Midwestern states. The organization, founded in 1986, has helped develop and sustain over 70,000 women owned businesses by building capacity, providing financial assistance, and assisting women and minority business owners with developing business opportunities in the public and private sector. WBDC is also a leading advocacy and public policy organization in the areas of access to capital, affirmative action and business opportunities for women and minority owned businesses, and financial systems reform. WBDC works locally and nationally to advocate and help implement policy changes to enhance economic security and community prosperity through successful business ownership. WBDC has testified at public hearings held in Chicago and in Washington on needed revisions to CRA.

Introduction

The Women's Business Development Center strongly believes that CRA examinations should focus on assessing whether financial institutions are actually meeting the retail financial services needs of LMI people in the United States. The mere offering of products and services which financial institutions presume meet the needs of LMI people is an insufficient standard for fulfilling the purpose of CRA. Based on existing research and our experience advocating with and on behalf of LMI people for over 30 years, we believe the following facts and principles summarize the current retail financial services needs of LMI consumers and should guide answers and solutions to the retail CRA Q&As.

1. **LMI people who lack adequate emergency savings or liquid assets sometimes need small dollar loans, but they need access to small dollar loans based on ability to repay that do not trap them in a cycle of debt and that can be reported to credit reporting bureaus to gradually improve or build a credit history and credit score.** A non-exclusive list of examples of affordable small dollar loans are those provided by some credit unions, affordable secured credit cards, Key Bank's Key Basic product, Mission Asset Fund's Lending Circles, FDIC's Small Dollar Loan Pilot, and the standards announced in the OCC and FDIC deposit advance product guidance.

2. **LMI people need quality financial counseling, education and/or coaching that is directly tied to opening and using safe and affordable financial products in order to achieve financial capability.** Financial education that creates knowledge or confidence without also creating documented improvements in financial behavior, credit scores, or use of safe and affordable financial products is not effective and should not be eligible for positive CRA credit.

3. **LMI people want to conduct their financial lives with responsible financial services providers who do not undermine a fair financial system** by erecting unreasonable access barriers to safe and affordable retail financial services, offering predatory financial products, financing third-party predatory lenders, or engaging in discriminatory practices.

Based on an understanding of these LMI consumers' needs, we believe that:

Banks should be evaluated under the CRA retail service test based on the extent to which they actually meet specific quantity and quality goals established for each institution and assessment area based on their market share, LMI need factors, and other relevant factors unique to the particular performance context in their assessment areas. Banks should not be evaluated solely against their peers, which could generate a race to the bottom. Only banks that meet minimum retail quantity and quality goals and do not engage in behavior that undermines a safe and affordable financial system should be eligible for a Satisfactory rating. Only banks that exceed minimum retail quantity and quality goals and do not engage in "undermining" practices should be eligible for an Outstanding rating.

Banks should be required to offer secured credit or small dollar loan products. Banks that do not offer safe and affordable secured credit or small dollar loan products should not be eligible for a Satisfactory or Outstanding CRA rating. LMI people should be able to safely and affordably meet their needs for emergency credit through the mainstream financial system.

If banks meet or exceed the minimum retail financial services quantity and quality goals established for their assessment areas, including safe and affordable secured credit cards, small dollar loans, or lending circles, and also offer additional innovative or specialty retail products and services that are used to meet LMI needs, the banks should receive extra CRA credit which may make the bank eligible for an Outstanding CRA rating, but such extra credit should not be used to substitute for meeting the goals necessary to obtain a Satisfactory rating. Examples of products and services used by a significant number of LMI consumers for which a bank may receive extra CRA credit include: Individual Development Account (IDA) programs; children's savings account (CSA) programs; school-based banks; and LMI use of auto-save features to increase savings.

We address the Q&As more specifically below.

I. Access to Banking Services

A. Availability and Effectiveness of Retail Banking Services

The retail CRA Q&As should focus on the extent to which banks are *actually meeting* a broad range of LMI consumers' retail financial services needs, regardless of the system for delivering those services. The focus should NOT be on mere availability of, or access to, a product or system of delivery which is not actually used by diverse segments of the LMI population. Even when a product or service reaches a fraction of LMI people, banks must also offer other products, services, and delivery systems that meet the needs of a broader range of LMI people so that no one is left out of the financial mainstream. Under current CRA regulations, assessment areas focus on geographic areas with deposit-taking branches and/or ATMs. While CRA advocates have argued for years that assessment areas should include all areas in which a bank conducts significant business, the proposed revisions to the retail CRA Q&As do not change the assessment areas. Rather, the proposed revisions clearly state that "alternative delivery systems supplement the services provided by a financial institution's branch and deposit-taking ATM structure." The Agencies further state it is their goal to "encourage broader availability of alternative delivery systems … without diminishing the value full-service branches provide to communities."

1. Does the proposed revised guidance strike the appropriate balance between consideration of traditional delivery systems (e.g., branches) and alternative systems for serving low- and moderate-income geographies and individuals?

No. By proposing to allow credit for alternative delivery systems (ADS) without expanding assessment areas to include areas in which a bank does significant business, the proposal diminishes the value that full-service branches provide to LMI people and communities and to people who do not use ADS. Thus, while it is appropriate to delete the phrase that "performance standards place primary emphasis on full-service branches," it is NOT appropriate to delete the statement that ADS are considered "only to the extent" that they are effective in providing needed services to LMI geographies and individuals. The existing latter phrase is necessary to make it clear that mere availability of retail services without effective use by LMI people is not sufficient.

The recent FDIC paper on mobile banking shows that while LMI use of mobile phones is prevalent and use of smart phones is growing, LMI people are still less likely to use smart phones than the general population and mobile banking has some significant disadvantages compared to branches for many in the LMI population. For example, the FDIC noted that one-on-one interaction is still important for the underserved, particularly for coaching and guidance.

The 12 CFR _.24 (d) criteria should be revised as follows:

(1) Because fewer LMI people use ADS than more affluent people, banks should put greater emphasis on ensuring that the distribution of branches in LMI areas adequately meets the needs of LMI consumers.

(2) Banks should get negative CRA credit for closing branches in LMI areas, unless the bank documents the migration of the same number and type of displaced customers to ADS AND adequate progress towards banking the unbanked through either branches or ADS.
(3) Banks should get positive CRA credit only for *actually* serving LMI needs, NOT for merely making services available. The examiners should use rigorous data to determine LMI community needs and assess how well banks are meeting them, such as examining data on demographics of product or service usage and sustainability over time and comparison of cost and quality of products and services based on model products.
(4) Banks should receive positive CRA credit for the degree to which products and services tailored to meet the needs of LMI people are *actually* meeting those needs.

Whether the services test places "primary emphasis" on full-service branches should depend on the needs of the specific LMI population in the assessment area. For example, if a significant segment (which doesn't have to be over 50 percent) of LMI people in an assessment area do not use internet/online banking, mobile banking, or remote deposit capture; don't speak English; and/or are over age 65, then branches may be a primary need and should receive primary emphasis.

B. Alternative Systems for Delivering Retail Banking Services

2. Are the factors listed for consideration when examiners evaluate the availability and effectiveness of alternative delivery systems sufficiently flexible to be used by examiners as the financial services marketplace evolves? Are there other factors that should be included?

The list of factors proposed in the revised Q&As is potentially too broad. Factors that should be used to determine the quality and quantity of ADS include:

(ii) Cost to consumers (not just as compared with other delivery systems);

(v) Rate of adoption (The Agencies should add a sustainability factor, e.g., account opened and still in use six months later); and

(vi) Reliability of the system.

Factors that are relevant to adoption of ADS by LMI people, but which should not generate CRA credit independent of adoption by LMI people, include:

(i) Ease of access or "availability";
(iii) Range of services delivered; and
(iv) Ease of use.

The proposed guidance further states that banks "may" provide data and quantitative information demonstrating that its ADS is used by LMI individuals INCLUDING DATA ON LMI INDIVIDUALS BASED ON RACE AND GENDER. This language should be changed to "MUST provide data" and that CRA credit is NOT available without supporting documentation. As Woodstock Institute showed in its 2009 report, *Benchmarking Branch Outcomes*, banks regularly maintain and use data and quantitative information on demographics of their customers and usage of their products and services. Several major banks now have chief data officers who use the bank's data on customer usage of products and services to cross-sell other products. For example, the Bank of North Carolina "uses a SAS program that draws on 300 data fields to create easy-to-read charts on topics ranging from loan performance to mobile usage." Since banks already have this data infrastructure in place, it should not be a significant burden for them to report the data to the Agencies. As Woodstock urged in the Benchmarking report, the Agencies should not only mandate collection of such data, by should also make the data publicly available (without disclosing personally identifiable information, of course).

The proposed factors on ease of access, range of services, and ease of use relate only to "availability" without connection to actual use by LMI individuals and, if used independent of LMI usage data, would provide too much flexibility to examiners and banks.

Additional factors that should be included are: the extent to which the bank's ADS is actually meeting the needs of a broad range of LMI individuals, as evidenced, for example, by usage by LMI immigrants, non-English speaking, low-literacy, elderly, vision- or hearing-impaired, persons without home computers, persons who do not use mobile or smart phones, persons who make payments with money orders, and persons who save coins.

3. What types of information are financial institutions likely to routinely maintain that may be used to demonstrate that an institution's alternative delivery systems are available to, and used by, low- and moderate-income individuals?

As noted above, Woodstock's 2009 report on *Benchmarking Branch Outcomes* showed that banks routinely maintain information and data that can and should be used to demonstrate that a bank's products and services are actually used by LMI persons. For the Woodstock report, a major regional bank (National City, now a part of PNC Bank) provided the following data: transaction-level data from a three-month period in 2007; and household-level level data for the month of November in 2005, 2006, and 2007. Using that data, it was possible to analyze:

- Usage of transaction accounts, online and telephone banking, as well as use of Visa products for specific periods: average number of transactions per household for bank customers in a Census tract;
- Percent transactions at the target branch and other branches; percent of bank income from fees (outside of interest and loan fee income);
- First account opened and last product or account opened (showing tenure or sustainability); last product or account type opened;
- The number of banking products a households owns other than transaction accounts, such as credit cards;
- The total number of accounts at the household, including deposit accounts, checking accounts, savings accounts, safe deposit boxes, and insurance and brokerage accounts, and ATM and debit cards; and
- Income levels based on CRA categories, including LMI.

The National City data also allowed for analysis of customers' use of the branches based on customers' residence proximity to the branch, showing that LMI customers more heavily used their neighborhood branches, illustrating the importance of having branches in LMI areas.

While banks may not have readily available data or quantitative information for some of the items, such as ease of access or use (which could depend on factors beyond the bank's control), banks should have printed or online materials describing the cost to consumers, range of services offered, and records of the numbers of consumers who have adopted and sustained use over time (say, six months) any specific ADS.

4. What other sources of data and quantitative information could examiners use to evaluate the ease of access; cost to consumers, as compared to other delivery systems; range of services delivered; ease of use; rate of adoption and reliability of alternative delivery systems? Do financial institutions have such data readily available for examiners to review?

See, *e.g.*, www.bankrate.com and www.magnifymoney.com.

5. When considering cost to consumers, as compared with other delivery systems, and the range of services delivered, should examiners evaluate these features relative to other delivery systems (i) offered by the institution, (ii) offered by institutions within the institution's assessment area(s), or (iii) offered by the banking industry generally?

When considering costs, examiners should consider the costs in the FDIC, CRC, and Citi Access models as well as a comparison of cost relative to other banks in the assessment area and the industry generally. If the cost is considered only relative to other delivery systems, by the bank or other banks, it could lead to cost inflation and lack of affordability for LMI people. Analysis of the cost should also determine whether it is easy for LMI customers to waive those costs. For example, it is relatively easy for a Citi Access account customer to waive the monthly fee of $10 by using one direct deposit per month, paying one bill online per month, or by maintaining a balance of at least $1,500. Or, it is relatively easy for a Chase Total Checking account customer to waive the $12 monthly fee by having an *aggregate* of $500 per month directly deposited (but not if each deposit must total least $500, which is higher than many amounts of Social Security payments). Basic checking and savings accounts that charge high fees which are not easily waived by LMI consumers should not pass the quality part of the CRA retail services test.

6. Do the proposed revisions adequately address changes in the way financial institutions deliver products in the context of assessment area(s) based on the location of a financial institution's branches and deposit-taking ATMs?

No. The proposed revisions do not adequately address changes in the way banks deliver retail financial services because they do not change assessment areas consistent with where banks conduct significant business outside of branches. If the proposed Q&As were adopted without the changes suggested here, banks would be encouraged to close branches and shift resources to ADS without having to demonstrate that ADS is actually meeting the financial needs of LMI people. Limiting assessment areas to where banks have branches or deposit-taking ATMs may incentivize banks to remove branches and ATMS from LMI areas in order to avoid having those areas used in their CRA evaluations.

Respectfully submitted,

Hedy M. Ratner, President Emeritus

Women's Business Development Center

Cc: Emilia Dimenco, CEO and President, Women's Business Development Center

Dory Rand, President, Woodstock Institute