CSBS SINCE 1902

CONFERENCE OF STATE BANK SUPERVISORS

November 10, 2014

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
Mail Stop
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Washington, DC 20219

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

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

Re: Interagency Questions and Answers Regarding Community Reinvestment

To Whom It May Concern:

The Conference of State Bank Supervisors ("CSBS") appreciates the opportunity to comment on the Interagency Questions and Answers Regarding Community Reinvestment (Docket ID OCC-2014-0021; Federal Reserve Docket No. OP-1497). Broadly, state regulators continue to be concerned that the federal Community Reinvestment Act ("CRA") agencies are facilitating CRA compliance for large banks, which consequently puts smaller institutions at a comparative disadvantage.[1] While the many points of clarification addressed in this proposal are necessary and appropriate at a high level, implementation of the proposed solutions must not be a means of standardizing CRA requirements for data and model driven institutions. Community impact

[1] *See* CSBS Comment Letter for Interagecny Questions and Answers Regarding Community Reinvestment (May 17, 2013) *available at* http://www.csbs.org/regulatory/policy/Documents/2013/csbs-cra-comment-letter(final).pdf.

requires purposeful engagement with communities, and the Q&A's should make clear that data and broad distribution of products are not a substitute for working to improve a local community.

PROPOSED REVISIONS TO EXISTING QUESTIONS

Access to Banking Services

The Agencies are proposing to consider CRA credit for a broad range of technology advances that may be alternative delivery systems for community financial services. CSBS supports the premise of these changes to the Q&A's to encourage the use of alternative delivery systems to low- and moderate-income geographies and individuals. However, it must be evident that there is a specific intended purpose for addressing the needs of low- and moderate-income borrowers and geographies. It should be made clear that CRA credit will not be granted for broad-based deployment of a technology project unless there is ample information demonstrating its benefit as an alternative delivery system for underserved low- and moderate-income populations.

State regulators support the flexibility provided by increased availability of services, but to be considered community reinvestment, the delivery system must be mainly designed to bridge banking services to underserved local community based markets. Furthermore, the agencies should also encourage financial institutions to perform independent feasibility studies to demonstrate the effectiveness of proposed delivery models to on-site examiners.

To ensure an even playing field, CSBS recommends the six factors outlined in the proposal be further clarified. Each example needs a community nexus; otherwise, any new product could be considered community reinvestment if an institution covers enough markets.

Innovative and Flexible Lending Products

The agencies are proposing to expand the list of innovative and flexible lending products to include small dollar loan programs and lending programs that use alternative credit histories. State regulators recognize these areas hold tremendous opportunity for financial inclusion. As such, CSBS is supportive of such programs being added to the list of innovative and flexible lending products, provided proper oversight is included to ensure the potential for abusive loan products and federal preemption of state laws is not realized. Second, the agencies should ensure that these innovative and flexible lending programs are available to all institutions subject to CRA, not only to large institutions.[2]

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[2] CSBS is concerned because the proposed revision expanding the list of innovative and flexible lending products would appear to apply only to large institutions. *See* Office of the Comptroller of the Currency, Treasury (OCC),

Community Development

Economic Development. The agencies propose to provide further examples of economic development. The proposed revision provides examples demonstrating how an activity promotes economic development for CRA purposes. CSBS is supportive of the examples and suggests including "Quality of Jobs Created" as an element. This suggestion seems appropriate given that most part-time positions, although considered permanent, do not provide employee benefits. Benefits are essential to job creation and retention for low- and moderate-income individuals.

The agencies should also consider allowing for CRA-credit for community and economic development activities that foster relationships within local community colleges for workforce and small business development programs. Some of these programs are geared towards expansion of credit for micro-businesses, educational advancement of minority entrepreneurs, and job creation. Collectively, these efforts promote social and economic growth in geographies with limited investments.

Community Development Loans. The agencies propose to add an example of how examiners may consider community development loans related to renewable energy or energy efficient technologies that have a community development component. Considering the substantial investments needed for energy efficient technologies and burden associated with proving an impact for low- and moderate-income persons, this proposal seems to be for the benefit of larger institutions. Accordingly, it must be clear that CRA credit can only be earned when an energy-focused community development loan directly addresses the needs of the assessment area's low- and moderate-income individuals. An example of this could be a loan to finance renewable energy related to a community health center in a low- and moderate-income area.

Community Activities that Revitalize or Stabilize Non Metropolitan Middle Income Geographies. The Agencies propose to add an example to Q&A .12(g)(4) of how loans that finance broadband infrastructure can be considered to revitalize or stabilize an underserved non-metropolitan middle-income geographic area. CSBS raises the same concerns noted above for energy efficient community development loans, and stresses the need to analyze the direct impact in the areas where these loans are made.

One example of an activity that can serve as a framework for credit-eligible consideration is building communication infrastructure consistent with the U.S. Department of Agriculture's

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Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), Office of Thrift Supervision, Treasury (OTS) "Community Reinvestment Act, Interagency Questions and Answers Regarding Community Reinvestment," March 11, 2010, available at http://www.ffiec.gov/cra/pdf/2010-4903.pdf, specifying, "innovativeness or flexibility of an institution's lending under the lending test applicable to *large institutions*?" "§ __.22(b)(5) – 1 (*emphasis added*).

(USDA) Rural Broadband Loan Program. The program funds the costs of construction, improvement, and acquisition of facilities and equipment to provide broadband service to eligible rural areas. For CRA consideration, institutions should be responsible for identifying the area considered as an underserved non-metropolitan middle-income geography.

PROPOSED NEW QUESTIONS

Community Development Services

Evaluating Retail Banking. The agencies are proposing to clarify how retail banking services and community development services are evaluated with the addition of a new proposed Q&A _.24(a)-1. CSBS supports the proposed new Q&A and encourages it to be used to promote consistency throughout exams. State regulators stress the importance of financial institutions demonstrating that community development services are responsive to the needs of low- and moderate-income individuals or geographies. Additional tools and resources state regulators use to determine an institution's responsiveness in the community are the institution's CRA Meeting Minutes and discussions with community contacts.

Quantitative and Qualitative Measures. The Agencies are proposing a new Q&A _,24(e)-2 to address the qualitative and quantitative factors that examiners review when evaluating community development services to determine whether community development services are effective and responsive.

State regulators are supportive of the proposed new Q&A to address qualitative and quantitative factors, and recommend that qualitative aspects of a community development service be a primary driver in determining whether services are effective and responsive. Quantitative aspects should be considered secondary. An example of a qualitative activity potentially yielding a greater impact in the community is the consideration of employees who serve as committee members at a local affordable housing investment corporation as part of an institution's community development service strategy. Many local investment corporations provide private financing for affordable housing projects, partnering with depository institutions that invest in projects and the corporation. From a qualitative aspect, these activities generate a greater impact on the community than the quantitative logging of community services activities.

Responsiveness and Innovativeness

Responsiveness. The agencies are proposing new guidance on how examiners evaluate whether a financial institution has been responsive to credit and community development needs. CSBS supports the proposed addition, and notes that it provides clarity for institutions transitioning from a small bank CRA examination to an intermediate small bank CRA examination.

Innovativeness. Agencies are proposing a new Q&A to address what is meant by innovative. _.24(a)-4. CSBS is supportive of the new Q&A because it provides greater clarity for examiners and the institution.

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State regulators are supportive overall of the proposed revisions and the new proposed CRA Q&A's. CSBS encourages the agencies to emphasize having institutions establish a local community connection in their assessment area to low- and moderate-income individuals and geographies through improved retail banking services, innovative and flexible lending products, and community development investment and services. Institutions taking a leadership role in their assessment areas fosters long-term community relationships, resulting in a meaningful and lasting benefit to low- and moderate-income individuals and the community as a whole.

Sincerely,

John W. Ryan
President & CEO