NATIONAL
HOUSING
CONFERENCE

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
Docket ID OCC-2014-0021

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

Robert deV. Frierson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Docket No. OP-1497

Docket No. OP-1497– Community Reinvestment Act; Interagency Questions and Answers Regarding Community Investment Notice

The National Housing Conference (NHC) appreciates the opportunity to comment on the Community Reinvestment Act Interagency Questions and Answers Regarding Community Investment Notice. Clarifying Community Reinvestment Act (CRA) eligible retail and community development lending activities of covered lenders facilitates expansion of those activities. These changes to the Questions and Answers could therefore bring significant benefits for low- and moderate-income communities.

Our primary recommendations are:

1) Emphasize cost, ease of use and adoption among the factors proposed to measure alternative delivery systems to assess how well banks are serving low-income borrowers.
2) Add utilizing alternative payment histories as an example of an innovative lending practice.
3) Include energy efficiency and renewable energy lending activities as a community development loan type example.
4) Add broadband communication infrastructure as an example of activities to revitalize underserved nonmetropolitan communities.

NHC works to support federal policies that assist low and moderate income families and advance innovative housing strategies. One area of focus is to restore neighborhoods damaged by the foreclosure crisis and years of disinvestment. The actions of CRA lenders have a significant impact in these areas from their participation in the Low Income Housing Tax Credit (LIHTC) program to working with Community Development Financial Institutions (CDFIs) to finding new ways to reach unbanked and under-banked households. These revisions to the Questions and Answers offer an opportunity to further incentivize and broaden CRA lending activities that benefit and expand credit access to low-income communities.

I. About the National Housing Conference

The National Housing Conference represents a diverse membership of housing stakeholders including tenant advocates, mortgage bankers, non-profit and for-profit home builders, property managers, policy practitioners, realtors, equity investors, and more, all of whom share a commitment to safe, decent and affordable housing for all in America. We are the nation's oldest housing advocacy organization, dedicated to the affordable housing mission since our founding in 1931. As a nonpartisan, 501(c) 3 nonprofit, we are a research and education resource working to advance housing policy at all levels of government in order to improve housing outcomes for all in this country.

II. General comments on the Community Reinvestment Act

NHC appreciates the effort of the regulators to update and modernize the Questions and Answers, and hopes the regulators will move to complete a comprehensive review of the CRA regulations. Compliance with the CRA motivates financial institutions to provide much-needed community development financing. Over time, however, changes in how financial institutions do business have weakened the efficiency and effectiveness of assessment areas as a CRA mechanism. Updating CRA guidance and regulations to address all geographic areas where CRA-regulated institutions provide retail banking services and giving credit for CRA activities outside of assessment areas could help correct the geographic imbalances in CRA activity we all too frequently observe, such as the large disparities in Low Income Housing Tax Credit pricing. This change would capture more lending activities provided by covered institutions providing primarily online banking services as well as large multi-state banks that serve consumers across a broader geography but may not have deposit taking branches in all of those areas.

III. Comments on the proposed rule

As technology continues to advance rapidly and the nature of lending changes, clarifying certain aspects of the CRA examination process helps lenders to adapt their community development activities to a changing world. NHC urges the regulators to take on this analysis regularly because of the rapid pace of change as well as the urgent need to encourage banks to meet underserved communities in a time when income inequality is increasing.[1] After reviewing the proposed Interagency Questions and Answers, NHC supports the revisions and additions, with a few suggestions for improvement.

A. Availability and Effectiveness of Retail Banking Services

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[1] Lowrey, Annie. "The Wealth Gap in America Is Growing, Too" New York Times. April 2, 2014. http://economix.blogs.nytimes.com/2014/04/02/the-wealth-gap-is-growing-too/

NHC supports the proposed change removing the primary emphasis on bank branches because it would allow greater use of alternative systems for delivering banking services without a negative impact on CRA exams. Because of the onset of interstate banking and use of technology in lending, physical bank branches are no longer the only mechanism to serve low-income communities. However, to count in a CRA examination, alternative systems must be proven effective at providing needed services to low-income communities. Banks need to think through alternative financial systems that will reduce the number of unbanked and under-banked households, still twenty-eight percent of all US households.[2] Simply offering an alternative system, like the availability of ATMs, should not be sufficient.

B. Alternative Systems for Delivering Retail Banking Services

The proposed factors for measurement of alternative systems are sufficiently flexible, although the proposed changes do not fully address how mortgage lending can be done in an alternative method that is just as equitable as mortgage lending through a physical bank branch. Studies show that low-income borrowers are more likely to receive prime loans through bank branches than brokers, so providing equitable mortgage lending through alternative systems may be challenging.[3] However, online systems may be a viable alternative and deserve further attention. Non-CRA covered institutions are very active in this space so any efforts to encourage CRA banks to more fully engage in online mortgage lending could provide better products to low-income borrowers.

Of the factors proposed, cost, ease of use and adoption are incredibly important to assess how well banks are serving low-income borrowers. The Q&As as proposed do not dictate that all measures have to be used which is important to maintain the necessary flexibility; however, adoption should be considered in every case, because if low-income borrowers are not using the services provided, those services are not effective. For example, low-income households are less likely to have broadband internet access, limiting their ability to use online mortgage application systems. Evaluating rates of adoption could show that online mortgage lending is not reaching a low income community and lead an institution to pursue other delivery systems. The metrics of cost, ease of use, and adoption should be applied to the bank branches as well, to better measure how they serve low-income consumers.

C. Innovative or Flexible Lending Practices

NHC supports the addition of the two new examples to the list of innovative or flexible lending practices: small dollar loan programs and utilizing alternative credit histories. They offer ways to meet the credit needs of historically underserved individuals and borrowers who may be responsible users of credit but whose formal credit history does not fit within standardized measures. For alternative credit histories, the OCC should suggest parameters that meet the standard for safe and sound lending practices.

D. Community Development

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[2] 2013 FDIC National Survey of Unbanked and Underbanked Households. October 2014.

[3] Avery, Brevoort, and Canner, “Higher-Priced Home Lending” and “The 2005 HMDA Data.”

NHC supports adding a new example of a community development loan for financing renewable energy or energy-efficient equipment or renovations for affordable housing or community facilities. It can be difficult for affordable housing projects to access financing for renewable energy or energy efficient improvements that will contribute either to the longevity of a new housing development or improvement of an existing housing development. Accessing capital for retrofits and working within multilayered financing structures of affordable multifamily projects is also a challenge.[4]

Various financing models are available to solve this problem, and if more banks became involved, more strategies could be deployed to find the best options for financing multifamily energy efficiency retrofits. It could also help persuade banks to try this type of lending through pilot programs which could then become mainstream products. Adding this as an example of a community development loan could motivate more lenders to become involved in this activity, which is a need in many communities. Additionally, this example should be broadened to include water efficiency improvements and healthy housing renovations (e.g. asbestos removal or radon treatment).

E. Revitalize or Stabilize Underserved Nonmetropolitan Middle-Income Geographies

NHC supports adding a new example to the list of activities that revitalize or stabilize underserved nonmetropolitan middle-income geographies: new or rehabilitated communication infrastructure such as broadband internet service. When communities and individuals cannot access the Internet, they are left out of many educational and employment opportunities. According to U.S. Census data, 25 percent of all households do not have Internet access at home,[5] and only 43 percent of families making less than $25,000 have broadband access at home.[6] Motivating lenders to get more involved in this activity would benefit underserved low-income communities.

The proposed language currently defining these activities limits activities appropriately focuses on underserved nonmetropolitan middle-income geographies, but NHC proposes adding “distressed” well, to also include communities who lack financial resources to implement broadband.

F. New questions for Q&As

NHC supports the addition of four new questions and answers around how banks are evaluated. Evaluating banks based on if their services are both effective and responsive is a welcome clarification. The emphasis on responsiveness is also a positive change and clarifying that examiners should not solely rely on a quantitative factor like hours of financial literacy workshops is helpful. However, the language

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[4] Evens, Anne; Markowski, Jack; and Schwartz, Matt. “Financing Energy Efficiency Retrofits of Affordable Multifamily Buildings” Community Investment Review. Federal Reserve Bank of San Francisco. March 2014. http://www.frbsf.org/community-development/publications/community-development-investment-review/2014/march/financing-energy-efficiency-retrofits-affordable-multifamily-buildings/

[5] U.S. Census Bureau. Computer and Internet Access in the United States: 2012 http://www.census.gov/hhes/computer/publications/2012.html

[6] HUD PD&R. Understanding the Broadband Access Gap http://www.huduser.org/portal/pdredge/pdr_edge_featd_article_100614.html

could be clearer and give examiners some guidance on how to weigh the quantitative and qualitative measures to try and provide some consistency for how banks are rated.

Adding responsiveness as an area of scrutiny is also helpful in terms of asking banks and lenders to think through programs more comprehensively, in terms of effectiveness and how well they benefit low-income individuals or underserved areas. NHC encourages the OCC, FDIC, and Federal Reserve to look for ways to emphasize and encourage responsiveness.

Focusing innovativeness on the institution itself and improvements it makes in response to customer and community needs is a beneficial clarification. Banks should not add any new product just to be considered "innovative" but should tailor their initiatives to the communities they serve. These additions around innovativeness should define innovative to discourage institutions from adding unnecessary layers in order to qualify as complex. Including examples that regulators consider innovative would be helpful as well as clarification that innovative activities may be considered but are not required.

IV. Conclusion

NHC commends the OCC, FDIC, and the Federal Reserve for their proactive efforts to improve the accuracy and relevancy of the CRA examination process. Please contact Rebekah King, Policy Associate (rking@nhc.org) with any questions.

Sincerely,

Chris Estes
President and CEO