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From: Bruce Dorpalen, National Housing Resource Center

In Reference to: Community Reinvestment Act:

Interagency Questions and Answers Regarding Community Reinvestment

The National Housing Resource Center (NHRC) submits the following comments in response to the notice and request for comment on revisions to the Interagency Questions and Answers Regarding Community Reinvestment proposed by the Department of the Treasury, Office of the Comptroller of the Currency (OCC) [Docket ID OCC-2013-003], Federal Reserve System (Board) [Docket No. OP-1456], and Federal Deposit Insurance Corporation (FDIC) (collectively, the Agencies).

While NHRC believes the proposed questions and answers would have some positive effect on helping to accomplish the purposes of the Community Reinvestment Act (CRA),we believe it is even more pressing that the Agencies address current issues in the CRA evaluation process that are undermining the accomplishment of those purposes.

The CRA is predicated upon a Congressional finding that "regulated financial institutions have continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered to do business" and has as its express purpose "to require each appropriate Federal financial supervisory agency to use its authority when examining financial institutions, to encourage such institutions to help meet the credit needs of the local communities in which they are chartered …." With this language, Congress intended that two obligations flow from the CRA: (1) an affirmative obligation on behalf of regulated financial institutions to help meet the credit needs of their local communities and (2) an obligation on behalf of the relevant supervisory agencies to encourage financial institutions to help meet the credit needs of their local communities.

One way in which a financial institution can fulfill its obligation to help meet the credit needs of its local communities is by investing in community development programs. Specifically, the CRA investment test "evaluates a bank's record of helping to meet the credit needs of its assessment area(s) through qualified investments …." A qualified investment is defined as "a lawful investment, deposit, membership share, or grant that has as its primary purpose community development." Community development, in turn, includes both "community services targeted to low- or moderate-income individuals" and "activities that revitalize or stabilize low- or moderate-income geographies." Pulling this all together, when a bank provides a grant that has as its primary purpose either community services targeted to low- or moderate-income individuals or activities that revitalize or stabilize low- or moderate-income geographies, that grant should qualify for credit under the CRA investment test.

To fulfill both the purpose of the CRA and their own obligation to encourage financial institutions to help meet the credit needs of their local communities, regulators should be doing as much as possible to encourage banks to invest in community development. Accordingly, CRA examiners should take a broad interpretation when considering whether the primary purpose of a grant is "community services targeted to low- or moderate-income individuals" or "activities that revitalize or stabilize low- or moderate-income geographies." However, it has come to NHRC's attention that in at least one recent CRA examination, a bank was not given credit for grants made to support activities such as capacity building, staff training, and research. Such a narrow interpretation of the scope of a qualified investment under the investment test is inconsistent with the purpose of the CRA and with Congressional intent that regulators encourage financial institutions to help meet the credit needs of their local communities.

There is no question that investments in the direct provision of housing counseling or community development services to low- and moderate-income individuals are qualified investments for purposes of the CRA investment test. However, **activities such as capacity building, staff training, and research, are essential to effective housing counseling or community development service delivery.** It is precisely these types of activities for which counseling agencies have the most difficulty securing funding. The majority of funding for housing counseling comes from the HUD housing counseling assistance program and, in recent years, the National Foreclosure Mitigation Counseling program, both of which are dedicated to direct counseling services. There is very little flexible funding available to counseling agencies to invest in critical activities such as staff training, capacity building, and research. Accordingly, **provided that an organization primarily serves low- and moderate-income individuals or geographies, activities that facilitate the provision of direct counseling services, such as capacity building, staff training, and research, should be considered "community services targeted to low- or moderate-income individuals" or "activities that revitalize or stabilize low- or moderate-income geographies" and therefore as qualified investments under the CRA investment test**.

In order to provide quality services for low and moderate income individuals or geographies, there needs to be support for capacity building. Housing counselors need in depth training, to be familiar with the financial literacy and mortgage qualification for people buying a house, with credit counseling for people with damaged credit and with loss mitigation counseling for people who are at risk of foreclosure. Counseling agencies need effective administrative systems and websites which can free up counselors from administrative tasks so they can devote more time to delivering direct services. Community development organizations need directed research to determine the most effective programmatic impacts of development work on low and moderate income communities. None of these activities are direct service, but they improve the effectiveness of the delivery of direct services and as a result benefit low and moderate income populations and communities.

This raises the issue of how to determine whether an organization primarily serves low- and moderate-income individuals. In the case of a local housing counseling agency, this should generally be easily accomplished by reference to data collected for HUD, which requires agencies to report the percentages of their clients at various levels of area median income (AMI). So, for example, a local housing counseling agency could be deemed to primarily serve low- and moderate-income individuals if at least 50% of their clients have income of 80% or less of AMI. **Once an agency is deemed to primarily serve low- and moderate-income individuals, any grant provided to that agency would be considered a qualified investment for purposes of the investment test.**

A more difficult issue arises with certain grants provided to larger housing counseling organizations such as HUD intermediaries, where as an example a bank provides a grant to help fund a national training that is attended by thousands of housing counselors representing hundreds of counseling agencies. Given the number of organizations that are represented at large national trainings and other similar events, the administrative task of documenting the client load of each counselor or of the agency which employs them will raise the cost of the trainings and disincentivize banks from investing in these activities.

NHRC proposes that funding for training housing counselors employed by agencies which are 501 c-3 exempt and HUD approved should be considered CRA eligible. HUD approved housing counseling agencies counsel primarily low and moderate income clients. Seventy four percent of clients in the last five fiscal years were households earning less than 80% of median income. The following data is from the past five years of the HUD 9902 reports.

Fiscal Year	0-79.9% AMI	Total responding	% less than 80% AMI
2008	1,259,973	1,617,295	**78%**
2009	1,689,857	2,308,592	**73%**
2010	1,274,750	1,719,718	**74%**
2011	1,167,208	1,568,585	**74%**
2012	1,055,201	1,463,317	**72%**
Total	6,446,989	8,677,507	**74%**

The Community Reinvestment Act is an important tool in increasing the availability of credit and services in low and moderate income people and in low and moderate income communities. NHRC is in support of efforts to strengthen the CRA enforcement and impact. Historically, the CRA has encouraged valuable investment in underserved communities. NHRC is concerned about the potential erosion of this impact if banks are discouraged from providing support for capacity building, training, or research.

National Housing Resource Center is a nonprofit organization which advocates on behalf of the non-profit housing counseling community.

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