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January 5, 2006

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551
Docket No. OP-1240

Mr. Robert E. Feldman
FDIC
550 17th Street, N.W.
Washington, DC 20429
Attention: Comments, RIN 3064-AC97

Office of the Comptroller of the Currency
250 E Street S.W., Mail Stop 1-5
Washington, DC 20219
Docket No. 05-17

I am writing from Woodstock Institute to comment on the "Proposed Interagency Questions and Answers regarding Community Reinvestment." Woodstock Institute is a Chicago-based research and policy organization that for over 30 years has worked to improve access to financial resources for low- and moderate-income and minority households and communities. Our comments focus key Q&As that we feel would benefit from increased clarification. We also have comments on issues not discussed in the Q&As, but relevant to the ongoing effectiveness of CRA.

Our comments are as follows:

Question: When do activities that provide housing for middle-income and upper-income persons qualify for favorable consideration as community development activities when they help to revitalize or stabilize designated distressed or underserved middle-income non-metropolitan geographies or disaster areas?

Comment: The current answer gives banks credit for activities that provide housing to middle- and upper-income households in designated distressed non-metropolitan middle-income areas or disaster areas if that housing is part of a broader plan to revitalize or stabilize that community that in some way benefits low- and moderate-income individuals. This gives banks CRA credit for directly participating in activities that may only indirectly affect low- and moderate-income individuals. Although we appreciate the complexity of revitalizing and stabilizing distressed communities and disaster areas, we feel that any activity for which a bank gets CRA credit must directly benefit low- and moderate-income individuals. Therefore, we suggest giving banks CRA credit for financing mixed-income housing in designated distressed or underserved middle-income non-metropolitan geographies or disaster areas where a portion of that housing must be set aside for low-

Question: How are revitalization activities in designated disaster areas considered?

Comment: The current answer states that "agencies will consider all activities that revitalize or stabilize a designated disaster area, but will give greater weight to those activities that are most responsive to community needs, <u>including</u> those of low- or moderate-income individuals or neighborhoods." While we strongly agree that greater weight should be given to activities that are most responsive to community needs, we believe that a strong emphasis should be placed on activities that benefit low- and moderate-income households and neighborhoods. Therefore, we suggest that language in the above answer be changed from "including" to "particularly" to better reflect this emphasis.

Question: What are examples of community development services?

Comment: The current answer lists a series of examples of activities that would be considered as community development services. We support the inclusion of these examples, particularly those clarifying that financial services, such as remittance services, will be considered for credit only if they increase access to financial services to low- and moderate-income individuals. Additionally, we agree that it is critical that banks provide financial services to low- and moderate-income individuals through branches in low- and moderate-income communities, but we would like the regulators to make clear that they will continue to closely monitor the percent of an intermediate small bank's full service offices in low- and moderate-income communities in addition to the services they offer through those branches.

Question: When evaluating a qualified investment, what consideration will be given for prior period investments?

Comment: If a bank has made a qualified investment prior to the current examination period that was particularly innovative and complex, we agree that they should be given credit for that investment on their current examination if that investment remains outstanding and continues to have an impact. However, we believe that this should be considered a bonus to institutions that have engaged in particularly innovative and complex investments that respond to community needs or, in the language of the intermediate small bank test, that the activity requires special expertise or provides a benefit to the community that would not otherwise be provided. We do not want this to be a loophole for institutions participating in long-term, low risk investments with limited impact or responsiveness to community needs. Therefore, we believe that only institutions with an "outstanding" rating on their previous investment or community development test should be able to carry over investments from that previous test for consideration on their current evaluation.

Question: How will the community development test be applied flexibly for intermediate small banks?

Comment: We agree that intermediate small banks should not be allowed to ignore one or more parts of the flexible community development test. We believe that the critical criterion for examining a bank's performance on the community development test should be an assessment of the bank's responsiveness to community needs. Regulators should assess community needs through discussions with local community development organizations and government officials and analysis of available, relevant studies. We note that the demand for a product is not wholly indicative of the level of community need because banks' stimulate markets by offering financial products and create new opportunities and demands. So in a very economically depressed community, bank initiatives will be important components of "creating need" and a bank should not be allowed to claim low current demand as definitive of actual or potential community need.

Question: What will examiners consider when evaluating the provision of community development services by an intermediate small bank?

Comment: We agree that regulators should consider types of services provided to benefit low- and moderate-income individuals such as low-cost checking accounts. We hope that the regulators will clarify that not only will they consider the provision of services to low- and moderate-income individuals through branches in low- and moderate-income communities, but also that they will consider the percent of an intermediate small bank’s offices in these communities. That the examiners will examine the provision <u>and</u> availability of services is a critical component of this Answer because the mere availability of a service is just the first step toward that service being used by an individual.

Question: When evaluating an intermediate small bank’s community development record, what will examiners consider when reviewing the responsiveness of community development lending, qualified investments, and community development services to the community development needs of the area?

Comment: We support the stronger consideration of community development activities if these activities show a particular responsiveness to community needs. We also support the statement that the examiners will consider quantitative measures of performance such as the number and amount of loans because a fair assessment of bank performance requires both quantitative and qualitative data.

We also request that regulators include an additional Q&A to clarify a new part of the recently adopted revisions to the CRA regulation which states that a bank’s CRA rating will be adversely affected by evidence of discriminatory or illegal credit practices. The level of impact on an institution’s CRA rating will be based on a number of factors such as the nature of the violation, policies in place at the institution to prevent such activity, and corrective measures enacted by the bank. Bank loans in any geography are covered as well as loans in any assessment area originated by any affiliate whose loans have been considered as part of the bank's lending performance. However, we request additional clarity on the implementation of this part of the regulation. We would also like clarification on issues such as: How will regulators examine institutions to check for discriminatory or illegal credit practices? What methods will regulators use to identify institutions that should be subject to more thorough examination? How will regulators assess mitigating factors affecting the adverse impact such discriminatory practices will have on an institution’s CRA rating?

We thank you for your consideration of our comments.

Sincerely,

Geoff Smith
Project Director

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