Interagency Questions and Answers Regarding Community Reinvestment

Presented by the FRB, FDIC, and OCC

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Agenda

• Overview
• Revised and new Q&As regarding community reinvestment
• Revised examination procedures for large institutions
• Questions
Overview

• Response to comments and issues raised during:
  – 2010 public hearings
  – Other outreach
  – Examinations

• Concern that community development (CD) activities are undervalued

• Additional guidance to clarify and promote CD activities was warranted
Community Development Defined

- Affordable housing for low- or moderate-income individuals;
- Community services targeted to low- or moderate-income individuals;
- Activities that promote economic development by financing small businesses or small farms;
- Activities that revitalize or stabilize low- or moderate-income areas; designated disaster areas; or underserved or distressed nonmetropolitan middle-income areas; and
- Loans, investments, and services that support, enable, or facilitate Neighborhood Stabilization Program (NSP) eligible activities in designated target areas.

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Issues Prompting Change

• Inconsistent application of guidance during the evaluation process
  – Activities in the broader statewide or regional area (BSRA) that includes the assessment area (AA)
  – Investments in nationwide funds
  – CD lending
  – CD services
  – Qualified investments

• Requests to clearly define “regional area”
Five Revised Q&As

• §___.12(h)–6: Activities in the BSRA
• §___.12(h)–7: Meaning of “regional area”
• §___.23(a)–2: Investments in nationwide funds
• §___.12(g)(2)–1: Community services
• §___.12(i)–3: CD services
Two New Q&As

- §__.12(t)–9: Qualified investments
- §__.22(b)(4)–2: CD lending

One Redesignated Q&A

- §__.12(g)–4 to §__.21(f)–1: Activities with minority and women-owned financial institutions and low-income credit unions

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§__12(h)–6 CD Activities in the BSRA

• CD activities in the BSRA that includes the bank’s AA(s) are considered
• CD activities that will not benefit the bank’s AA(s) may enhance the bank’s performance if the bank is responsive to CD needs and opportunities in its AA(s)
  – Responsiveness is a concept reflected throughout the regulations
  – Provides a flexible standard for determining consideration
How CD Activities in the BSRA are Considered

**Always considered**
- Direct benefit to AA(s)
- OR -
- Purpose, mandate, or function to serve the AA(s)

**May be considered**
- If the bank has been responsive to the needs and opportunities in its AA(s) –
- Activities that do not serve and will not benefit the AA(s)

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### Examples: Activity with purpose, mandate, or function to serve the AA(s)

<table>
<thead>
<tr>
<th>Activity</th>
<th>Coverage</th>
<th>Initial level considered during evaluation</th>
<th>Performance Evaluation (PE) Comments</th>
<th>Shown in tables (when used)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Technical Assistance to CD organization</td>
<td>AA</td>
<td>AA conclusion</td>
<td>Discussed at AA level</td>
<td>AA line</td>
</tr>
<tr>
<td>Investment in Native American Community Development Financial Institutions (CDFI)</td>
<td>Indian Lands in Western NY State</td>
<td>State rating</td>
<td>Discussed at state level</td>
<td>Separate line for state activity</td>
</tr>
<tr>
<td>Investment in Regional Small Business Investment Corporation (SBIC)</td>
<td>Multiple states within a region</td>
<td>Institution rating</td>
<td>Discussed at institution level</td>
<td>Separate line for regional activity</td>
</tr>
</tbody>
</table>
Example 1: The bank has defined the Buffalo metropolitan statistical area (MSA) as its AA, and bank offers technical assistance in its AA.
Example 2: The bank makes an investment in a Native American CDFI. The CDFI serves Indian territory within the bank’s AA and home state.
Example 3: The bank makes a qualified investment in an SBIC that serves the Great Lakes Region, including the bank’s AA.
Responsiveness to AA(s)

Examiners will:

• Assess responsiveness to needs and opportunities
• Include activities with direct benefit
• Include activities with a purpose, mandate, or function that includes serving the AA(s), even if the specific activity does not benefit the AA(s)
• Always consider performance context
### Examples: Activity has no purpose, mandate, or function to serve the AA(s)

<table>
<thead>
<tr>
<th>Activity</th>
<th>Geographic Coverage</th>
<th>Initial level considered during evaluation</th>
<th>PE Comments</th>
<th>Shown in tables (when used)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loan related to Low-Income Housing Tax Credit (LIHTC) project</td>
<td>In state: no impact on AA</td>
<td>State level</td>
<td>May be considered at state level if bank has been responsive to needs and opportunities in its AA</td>
<td>Separate line for state activity</td>
</tr>
<tr>
<td>Investment in Housing Finance Authority</td>
<td>Adjacent state</td>
<td>Institution level</td>
<td>May be considered at institution level if bank has been responsive to needs and opportunities in its AA</td>
<td>Separate line for regional activity</td>
</tr>
</tbody>
</table>
Example 1: The bank makes a loan related to a LIHTC project within the state, but that will not benefit the bank’s AA.
Example 2: The bank makes a qualified investment in the Pennsylvania State Housing Finance Authority which benefits multiple communities outside of the bank’s home state, but within the broader regional area.
§__.12(h)–7 Regional Area

- Interstate or intrastate area
- Common interdependencies
  - Geographic
  - Economic
  - Demographic
- Commonly accepted delineations
  - “Tri-county area”
  - “Mid-Atlantic states”
- Often defined by geographic scope and purpose of CD organization or initiative

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Examples: Regional Area

• Appalachian region:
  – Defined in authorizing legislation for the Appalachian Regional Commission

• The Carolinas:
  – Commonly recognized and used by organizations that serve both North and South Carolina

• Delta region:
  – Counties and parishes in 8 states: Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee
§__.23(a)–2 Qualified Investments in Nationwide Funds

• Important sources of investments in low- and moderate-income and underserved communities
• Investments must meet geographic requirements
• AA(s) are the primary focus of Community Reinvestment Act (CRA) evaluation
• Documentation is not required for consideration
• Side letters and earmarking are still permissible
• Artificial or arbitrary allocations to assessments are not acceptable

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Examples: Qualified Investments in Nationwide Funds

<table>
<thead>
<tr>
<th>Branch Footprint</th>
<th>Documentation provided</th>
<th>Initial level considered during evaluation</th>
<th>PE Comments</th>
<th>Shown in tables (when used)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nationwide</td>
<td>None</td>
<td>Institution level</td>
<td>Overall bank rating</td>
<td>Separate line for nationwide activity</td>
</tr>
<tr>
<td>Three contiguous states</td>
<td>Documentation showing direct benefit to one AA</td>
<td>AA level</td>
<td>AA conclusion</td>
<td>AA line</td>
</tr>
<tr>
<td>One state</td>
<td>No documentation to demonstrate investment benefits AA or BSRA</td>
<td>Not considered</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>
§__.12(g)(2)–1 Community Services Targeted to Low- or Moderate-Income Individuals

• Two proxies were added for determining whether beneficiaries are low- or moderate-income
  – Majority of students receive free or reduced-price meals
  – Services are targeted to individuals who receive or are eligible to receive Medicaid

• Proxies for low- or moderate-income also include recipients of government assistance programs with income restrictions equal to or more strict than the definition of low- or moderate-income under CRA
§___.12(i)–3 CD Services

• Added additional examples of technical assistance that can be provided to CD organizations which qualify as CD services
  – Service on the board of directors of CD organizations
  – Providing services reflecting employee’s area of expertise at the institution
New Q&A: §___.12(t)–9 Certain Types of Qualified Investments

• Consideration given for dollar amount that benefits an organization or activity with a primary purpose of CD
  – Excludes consideration of the face value of the investment if only the yield, or a portion of the investment, is used to fund CD activity

• However, the full amount is considered if:
  – Organization has a bona fide intent to deploy funds for a CD purpose, or
  – Funds are used to leverage and increase the organization’s capacity to lend or provide other CD services
# Examples: Qualified Investments

<table>
<thead>
<tr>
<th>Type of Activity</th>
<th>Primary Purpose of CD</th>
<th>Amount Considered</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1 million investment in a CDFI</td>
<td>Nonprofit intermediary with a CD mission</td>
<td>$1 million</td>
</tr>
<tr>
<td>Proceeds from $1 million bank loan to a</td>
<td>Targeted program has a primary purpose of CD, but receives</td>
<td>Interest paid to</td>
</tr>
<tr>
<td>nonprofit are invested in Treasury</td>
<td>only interest from the non-qualifying investment</td>
<td>support CD</td>
</tr>
<tr>
<td>securities. Interest paid on securities</td>
<td></td>
<td>program in bank’s</td>
</tr>
<tr>
<td>funds the CD program.</td>
<td></td>
<td>AA</td>
</tr>
</tbody>
</table>

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New Q&A: §___.22(b)(4)–2 CD Lending

• CD lending is always a factor in evaluating performance under the large bank lending test
• Record of CD lending may have a positive, neutral, or negative impact on the large bank lending test rating
• Considered in context of business model and community needs and opportunities in AA(s) or the BSRA
• Strong retail lending performance may compensate for weak CD lending performance and vice versa
• Preamble notes that there is not a mandate to lend in all AA(s)
Examination Procedures

• Interagency Large Institution CRA Examination Procedures issued April 18, 2014
• Only those sections related to CD activities and ratings are revised
• Appendix breaks out:
  – Initial level where activity is considered (AA, state, institution)
  – Where activity will be discussed in the PE
  – How data will be shown in the PE tables (when used)

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### Examples: Appendix to Examination Procedures

<table>
<thead>
<tr>
<th>Activity</th>
<th>Bank Footprint</th>
<th>Area activity serves</th>
<th>Initial level considered during evaluation</th>
<th>PE Comment</th>
<th>Shown in tables (when used)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government National Mortgage Association security: 2 of 15 projects are CD</td>
<td>Single state</td>
<td>Projects are primarily in the bank’s state</td>
<td>Not considered as the security does not have a CD primary purpose</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Investment in regional CRA fund</td>
<td>Two states: bank requests pro-rata allocation of investment to AA(s) based on deposits</td>
<td>AA(s) plus two additional states</td>
<td>Institution level: Not discussed at AA level unless direct benefit to AA</td>
<td>Overall bank rating</td>
<td>Separate line for regional activity</td>
</tr>
</tbody>
</table>

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Summary

• In determining responsiveness, examiners will consider activities in the BSRA that serve the AA(s), even if the specific activity does not benefit the AA(s).
• If the bank has been responsive to their AA(s), examiners will also consider activities in the BSRA that neither benefit nor serve the AA(s).
• Regional areas typically have some economic, geographic, or demographic interdependencies, or there may be commonly accepted delineations.
• Geographic requirements always apply, including institutions that have a minimal branch presence and a nationwide business focus.
Summary (continued)

• For investments in which only the income supports community development, examiners will consider only the income.
• Examiners will consider performance context when evaluating a bank’s CD lending.
• Banks may use proxies described in the Q&A to determine whether beneficiaries of CD services are low- or moderate-income, and may need to demonstrate the income qualifications of other proxies they propose.
• The performance evaluation addresses activities at the AA, state, multistate MSA, or institution level based on area served by the organization or activity.
• Investments will be recognized where benefit accrues rather than by arbitrary methods to allocate benefit to individual AA(s) or states.
Resources

- November 20, 2013 Federal Register Notice Supplementary Interagency Questions and Answers
- Interagency Revised CRA Examination Procedures
  http://www.ffiec.gov/cra/examinations.htm#EX_PROCEDURES
- FRB http://www.federalreserve.gov/communitydev/cra_about.htm
- FFIEC http://www.ffiec.gov/cra

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Questions?