Comment on the Community Reinvestment Act

Questions and Answers

of January 6, 2009

Community Capital Management
Revitalizing America

On July 11, 2007, the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and Office of Thrift Supervision published for comment proposed guidance, which updated and revised the 2001 Questions and Answers and combined the 2006 Questions and Answers and the OTS's September 2006 Questions and Answers. The proposal also introduced nine proposed new Q&As. An update to the Interagency Questions and Answers Regarding Community Reinvestment was released by the staffs of the FRB, FDIC, OCC and OTS on January 6, 2009 to provide guidance to financial institutions and the public. These Questions and Answers consolidate and supersede all previously published Interagency Questions and Answers on Community Reinvestment, and are effective immediately. While the Q&As remain fundamentally unchanged, some new issues were addressed with further clarification on other issues, especially with respect to investments in national mutual funds, such as the CRA Qualified Investment Fund.

As acknowledged for several iterations of Q&As and Interpretive Letter guidance, the regulations do not differentiate between a qualified investment purchased and held directly by an institution, or an "indirect" investment made through a fund, provided that the investment benefits the institution's assessment areas or a broader statewide or regional area that includes the institution's assessment area(s).

The recent guidance further defines the manner in which an institution can demonstrate that the investment benefits the bank's footprint, especially in the case of national mutual funds.

§__.23(a)–2: In order to receive CRA consideration, what information may an institution provide that would demonstrate that an investment in a nationwide fund with a primary purpose of community development will directly or indirectly benefit one or more of the institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s)?

A2. There are several ways to demonstrate that the institution's investment in a nationwide fund meets the geographic requirements, and the agencies will employ appropriate flexibility in this regard in reviewing information the institution provides that reasonably supports this determination.

As an initial matter, in making this determination, the agencies would consider whether the purpose, mandate, or function of the fund includes serving geographies or individuals located within the institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s). Typically, information about where a fund's investments are expected to be made or targeted will be found in the fund's prospectus, or other documents provided by the fund prior to or at the time of the institution's investment, and the institution, at its option, may provide such documentation in connection with its CRA evaluation. At the institution's option, written documentation provided by fund managers in connection with the institution's investment indicating that the fund will use its best efforts to invest in a qualifying activity that meets the institution's geographic requirements also may be used for these purposes. Similarly, at the institution's option, information that a fund has explicitly earmarked its projects or investments to its investors and their specific assessment area(s) or broader statewide or regional areas that include the assessment area(s) also may be used for these purposes. (If any documentation that has been provided at the institution's option as described above clearly indicates that the fund "double-counts" investments, by earmarking the same dollars or the same portions of projects or investments in a particular geography to more than one investor, the investment may be determined not to meet the geographic requirements of the CRA regulations.) In addition, at the institution's option, an allocation method may be used to permit the institution to claim a pro-rata share of each project of the fund.

Since the Fund's inception, Community Capital Management has employed a policy of explicitly earmarking dollar for dollar allocation of qualified investments within the Fund to shareholders' assessment areas, as defined by the invested institutions. Double-counting is prohibited. To ensure that allocation integrity is maintained throughout the history of the Fund, CCM developed a proprietary software system that tracks allocation history of both shareholders and investments

§__.23(e) Performance Criteria

§__.23(e)–2: How do examiners evaluate an institution's qualified investment in a fund, the primary purpose of which is community development, as defined in the CRA regulations?

A2. When evaluating qualified investments that benefit an institution's assessment area(s) or a broader statewide or regional area that includes its assessment area(s), examiners will look at the following four performance criteria:
(1) The dollar amount of qualified investments;
(2) The innovativeness or complexity of qualified investments;
(3) The responsiveness of qualified investments to credit and community development needs; and
(4) The degree to which the qualified investments are not routinely provided by private investors.

With respect to the first criterion, examiners will determine the dollar amount of qualified investments by relying on the figures recorded by the institution according to generally accepted accounting principles (GAAP).

Although institutions may exercise a range of investment strategies, including short-term investments, long-term investments, investments that are immediately funded, and investments with a binding, up-front commitment that are funded over a period of time, institutions making the same dollar amount of investments over the same number of years, all other performance criteria being equal, would receive the same level of consideration. Examiners will include both new and outstanding investments in this determination. The dollar amount of qualified investments also will include the dollar amount of legally binding commitments recorded by the institution according to GAAP.

The extent to which qualified investments receive consideration, however, depends on how examiners evaluate the investments under the remaining three performance criteria— innovativeness and complexity, responsiveness, and degree to which the investment is not routinely provided by private investors. Examiners also will consider factors relevant to the institution's CRA performance context, such as the effect of outstanding long-term qualified investments, the pay-in schedule, and the amount of any cash call, on the capacity of the institution to make new investments.

The standard for evaluating an institution's investment in a fund as a qualified investment does not differ from direct investments. An institution will be evaluated on quantitative factors, the amount of qualified investments; and qualitative factors, responsiveness to community development needs, complexity or innovativeness of the investments, and the degree to which private investors are involved in the issuance of such investments.

From a qualitative perspective, a national or regional fund may have better access to community development capital or may be able to purchase issues outside the capacity of smaller financial institutions. This could allow a bank to participate in qualified issues that fill a much needed community development need without taking on additional risks, such as credit, interest rate or liquidity.

As stated in *§__.23(a)–2, "Nationwide funds are important sources of investments for low- and moderate-income and underserved communities throughout the country and can be an efficient vehicle for institutions in making qualified investments that help meet community development needs."* Through the investments by financial institutions since 1999, the CRA Qualified Investment Fund has invested over $2.5 billion in qualified investments that support affordable housing, enterprise development, home-ownership opportunities for low-income families, and comprehensive community development activities that revitalize low and moderate income urban and rural areas and areas of economic distress.

Community Capital Management, Inc. is a Florida-based investment advisor registered with the Securities and Exchange Commission under the Investment Advisors Act of 1940.

Investing involves risk, including possible loss of principal. Bonds and bond funds are subject to interest rate risk and will decline in value as interest rates rise. Current and future holdings are subject to risk. The CRA Qualified Investment Fund is distributed by SEI Investments Distribution Co., which is not affiliated with Community. Capital Management, Inc. The Fund offers three total share classes, each with different expenses that would affect performance. Carefully consider the risks, investment objectives, and charges and expenses of the Fund before investing. This and other information can be found in the Fund's prospectus which can be obtained by calling 866-202-3573. Please read the prospectus carefully before investing.

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