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National Equity Fund
National City Bank
National Housing Development
Corporation
Ohio Capital Corporation for Housing
ShoreBank*

President & CEO

Judith A. Kennedy

January 9, 2006

Office of the Comptroller of the Currency
250 E Street, SW
Mail Stop 1-5
Washington, DC 20219
Re: Docket Number 05-17

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve
20th Street and Constitution Ave., NW
Washington, DC 20551
Re: Docket No.OP-1240

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
RIN number 3064-AC97

The National Association of Affordable Housing Lenders (NAAHL) represents America's leaders in moving private capital to those in need – 200 organizations committed to increasing private capital lending and investing in low- and moderate-income (LMI) communities. Members are the “who’s who” of private sector lenders and investors in affordable housing and community development: banks, thrifts, local and national nonprofits, mortgage companies, loan consortia, financial intermediaries, pension funds, and foundations.

We appreciate the opportunity to submit comments on the agencies' notice of November 10, 2005, which would clarify and revise guidance on the Community Reinvestment Act (CRA) through Questions and Answers addressing topics related to the revisions the agencies made to their regulations on August 2, 2005. We commend the FDIC, the OCC and the Federal Reserve for making the August changes through a joint rule, addressing the need for a fair and transparent process for consideration of changes to the rules, and encourage you to invite the OTS to join you in August's balanced, interagency proposal.

Unfortunately, we believe that the new Interagency Questions and Answers further complicate CRA requirements that already are overly complicated. These complications stifle institutions' efforts to meet the credit needs of their communities and disaster areas. Combined with the uncertainty resulting from the agencies' inconsistent treatment of what disaster relief receives favorable CRA consideration for which insured institutions, these unnecessary complications will also further undermine support for the law.

As we indicated in August, the updated CRA rules for “intermediate small” banks reflect NAAHL’s longstanding recommendation that a Community Development Test would encourage lenders to provide community development loans (benefiting LMI communities), and put greater emphasis on what community development activities are most needed in a community, thereby addressing some of the very real problems with 10 year old regulations. Outdated regulations actually discourage large banks from undertaking the resource-intensive, affordable housing loans and other community development activities, that are critical in many LMI communities.

The August changes provided more regulatory simplicity, flexibility, and incentive for intermediate small banks to meet the actual credit needs of their communities. The rules provide for a two-part CRA test for “intermediate small” banks that emphasizes “Community Development” for low- and moderate-income (LMI). The principles underlying the Community Development Test would also increase the regulatory incentives for institutions above \$1 billion in assets to undertake the complex and resource intensive community development loans, such as for rental housing affordable to those under 50% of area median income. To encourage badly needed, affordable rental housing, we request that you also update the CRA rules to offer all institutions the option of receiving substantive credit for the cost and difficulty of making these “multifamily affordable” community development loans, as we recommended in our May 10th, 2005 letter (attached).

We offer the following comments in response to the proposed questions and restore some of the August rules’ flexibility, simplicity, and consistency.

Question

When a disaster area’s designation expires pursuant to the applicable law under which it was declared, the agencies will adopt a one-year “lag period.” This lag period will be in effect for the twelve months immediately following the disaster area designation. Is a one-year lag period appropriate?

Comment

We commend the agencies for recognizing that complex, community development loans and investments often require multiple subsidies, and usually take longer periods of time to finalize. It is often unclear when any disaster declaration might “expire”. But lenders report that today, 5-7 years following other hurricane disasters, rebuilding is still underway.

Given the unprecedented scale and severity of the recent Katrina/Rita disasters, it seems more realistic to permit lenders to receive credit for a community development loan or investment in a disaster area for at least a period of 3 years from the date of the expiration of the disaster area designation, where banks’ engagement pre-dated that expiration. It also seems important that the agencies publicize the disasters’ expirations.

Question

Similar to the lag period proposed in connection with activities in designated disaster period, is a one-year “lag period” appropriate for banks to receive consideration for

community development activities in distressed or underserved non-metropolitan middle income geographies that have been removed from the lists?

Comment

We applaud the agencies for acknowledging the importance of a lag period providing favorable consideration for community development loans, investments and services in distressed or underserved, non-metropolitan, middle income geographies. It seems worthwhile to anticipate that a currently “distressed” or “underserved” community, as defined in the rule, may one day no longer qualify. Nonetheless, it seems unlikely that a qualifying community blossoms so strongly, and so suddenly, that activities there would no longer qualify for favorable consideration in one year.

As you know, census tract boundaries are not always evident to the public and to all of the bank personnel involved in lending. In addition, community development in distressed and underserved areas often involves a lengthy period of developing local capacity, as well as obtaining needed resources. Because of the time and resources associated with local capacity building, as well as training bank staff, and reporting, it is important to provide a longer lag time.

In recognition of the need for regulatory stability, economic development and local capacity building, we propose that the regulators synchronize any changes to their lists of “underserved” and “distressed” communities with updates from the U.S. Census. For example, the 2008 revisions would be updated in 2013, and then every 5 years after that.

Then for the sake of simplicity and consistency across these requirements, we recommend that if the banks’ engagement in the activity predates the agencies’ update eliminating a Community’s designation as “distressed” or “underserved”, the bank would have the same 3 year lag period that we suggested for disaster areas.

Question

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

Comment

The Examiner should have the discretion, within the bank’s performance context, to provide CRA credit in the current evaluation period for outstanding investments made during prior periods that “reflect a substantial financial commitment or outlay by the banks designed to have a multi-year impact.” This provision should apply to all banks because not only do some investments have significant impact, they also continue to utilize bank assets and represent a continuing financial commitment by the bank to the community.

For example, tax credit investments, especially in small properties and/or rural areas, are often illiquid. The bank remains at risk for the full investment during the entire 15 year period of the credits, yet frequently the investment only receives favorable consideration for the first few years. It seems important to clarify in the Q&A that these investments may also receive favorable consideration throughout the investment.

Question

What are examples of qualified investments?

Comment

The proposed listing currently appears adequate.

REVISED COMMUNITY DEVELOPMENT DEFINITION

Confirming that the revised definition applies to all banks is helpful. Unfortunately, the guidance specifies a different test for favorable consideration of activities in an “underserved” area than that applied to “distressed” and disaster areas. This distinction adds complexity that the September revisions were intended to reduce.

Restricting favorable consideration for activities in “underserved” areas that provide essential infrastructure or facilities for health care, education, etc., and/or housing to middle and upper income individuals only if the bank’s activities also provide housing for low and moderate income individuals, undermines the purpose of the “underserved” designation. In “underserved” non-metro communities, the population often is small, dispersed and distant from a population center so as to have difficulty financing community needs. Helping to attract and retain residents and businesses can be as significant for the development of these “underserved” communities as it is in “distressed” and disaster areas.

Finally, it is important for the agencies to clarify, once and for all, that all banks will receive CRA credit for providing lending, investment, or service activities to revitalize or stabilize the hurricane stricken areas, and to assist evacuees. The wide area of devastation and the number of those displaced require strong efforts to help the areas and persons in need. Wherever they are located, banks should receive favorable consideration for their assistance, with more weight given to benefits to LMI individuals or areas.

We commend the three agencies for their efforts to make the revised CRA requirements more transparent. If we can answer any questions or provide additional assistance regarding our comments, please do not hesitate to contact us.

Sincerely,

Judith A. Kennedy
President



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