

Federal Reserve Board
E-mail: regs.comments@federalreserve.gov
Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington DC 20551
RE: Docket No. R-1360

Federal Deposit Insurance Corporation
E-mail: Comments@FDIC.gov
Robert E. Feldman
Executive Secretary
Attention: Comments
550 17th St. NW 20429
RE: RIN number 3064-AD45

Office of the Comptroller of the Currency
E-mail: regs.comments@occ.treas.gov
250 E St. SW, Mail Stop 1-5
Washington 20219
RE: Docket OCC-2009-0010

Office of Thrift Supervision
E-mail: regs.comments@ots.treas.gov
Regulation Comments
Chief Counsel's Office
1700 G Street, NW
Washington, DC 20552
RE: OTS-2009-0010

July 29, 2009

To Whom It May Concern:

Opportunity Finance Network¹ appreciates the opportunity to comment on the Agencies' proposed rule concerning the Community Reinvestment Act (CRA) published in the *Federal Register* on June 30, 2009. These comments focus on the section of the proposal dealing with minority- and women-owned financial institutions and low-income credit unions.

In September 2007, OFN commented to the agencies on a draft Interagency Question and Answer regarding women- and minority-owned institutions, saying:

Opportunity Finance Network agrees with the Agencies in applying a "broader geographic criterion when evaluating capital investments, loan participations, and other ventures undertaken by that institution in cooperation with minority- or women-owned institutions or low-income credit unions..." if the Agencies apply the criterion to community development financial institutions (CDFIs) in addition to the other groups included. We urge the Agencies to include CDFIs since many CDFIs, especially National CDFIs, meet the credit needs of local communities on a state or regional basis. CDFIs are a recognized financial intermediary in the CRA and they are specifically highlighted in Sec. _____.12(h)-1 as an example of community development loans.

We continue to urge the Agencies to include partnership with CDFIs in this effort to help financial institutions reach the populations targeted by minority- and women-owned institutions and low-income credit unions.

¹ Opportunity Finance Network, the national network of more than 170 financial institutions creates growth that is good for communities, investors, individuals, and the economy. Its members include Community Development Financial Institutions (CDFIs) and other opportunity finance institutions that work just outside the margins of conventional finance to bring those markets into the economic mainstream and to help the economic mainstream flow into those markets. CDFI financing has resulted in significant numbers of new jobs, jobs preserved, quality, affordable housing units, and new commercial and community facility space in all 50 states. Over the past 30 years, the Opportunity Finance industry has provided more than \$23 billion in financing that would not otherwise have happened in markets that conventional finance would not otherwise reach.



By statute, CDFIs must serve the low- and moderate-income communities referred to in the CRA. Both the statutory requirements and the actual performance of Treasury certified CDFIs support the addition of CDFIs to the issue covered by the Q&A and the current proposal.

CDFI certification is a designation conferred by the Department of the Treasury's CDFI Fund. As a certified CDFI, a financial institution must demonstrate that it has a primary mission of promoting community development; that it provides financial products and development services to designated distressed or underserved target markets; and that it maintains accountability to these markets.

CDFIs frequently serve the same market interests as minority-owned financial institutions, women-owned financial institutions, and low-income credit unions. In FY2007, 70 percent of CDFI customers were low-income, 60 percent were minority and 52 percent were female—all much higher proportions than in mainstream financial institutions.² CDFIs should be accorded the same treatment under the CRA as these groups. This minor inclusion would help solidify the unique value of CDFIs in helping low- and moderate-income people and communities with their credit needs. This is, after all, the purpose of both CDFIs and the CRA.

The issue raised by the Agencies' current proposal points to an opportunity for broader modernization of CRA and its treatment of assessment areas. A bank's assessment area should be determined by how a bank defines its market. Under CRA, banks are required to provide non-discriminatory access to financial services in their market and assessed according to where they take deposits. In 1977, taking deposits was a bank's primary function. In 2009, banks no longer just accept deposits; they market investments, sell insurance, issue securities, and are rapidly expanding their more profitable lines of business. In addition, the advent and explosion of Internet and electronic banking has blurred the geographic lines by which assessment areas are typically defined.

Presently, CRA exams scrutinize a bank's performance in geographical areas where a bank has branches and deposit-taking ATMs. Defining CRA assessment areas based on deposits is at odds with the way financial institutions now operate. Moreover, it disregards the spirit of the CRA statute, which sought to expand access to credit by ensuring that banks lent to their entire markets.

Opportunity Finance Network recommends simplifying the definition of CRA assessment area according to a financial institution's customer base. For instance, if a Philadelphia bank has credit card customers in Oregon, it also has CRA obligations there. The obligations ought to be commensurate with the level of business in any market.

Thank you for the opportunity to comment. If you have questions or would like additional information on this comment letter, please do not hesitate to contact me at 215.320.4304 or mpinsky@opportunityfinance.net.

Sincerely,

Mark Pinsky
President and CEO

² The CDFI Data Project. (2009). "Community Development Financial Institutions (CDFIs): Providing Capital, Building Communities, Creating Impact, Fiscal Year 2007," <http://www.opportunityfinance.net/store/product.asp?pID=165>.