STATE OF NEW YORK
BANKING DEPARTMENT
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RICHARD H. NEIMAN
Superintendent of Banks

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Office of the Comptroller of the Currency
OCC Docket Number OCC-2010-10

Board of Governors of the Federal Reserve System
FRB Docket Number R-1387

Federal Deposit Insurance Corporation,
FDIC RIN 3064-AD60

Office of Thrift Supervision
OTS-2010-0017

Re: Notice of Proposed Rulemaking – Community Reinvestment Act Regulation

To Whom It May Concern:

The New York State Banking Department (Department) appreciates this opportunity to comment on potential revisions to the Community Reinvestment Act's (CRA) implementing regulations.[1] New York is one of only five states in the country that has a state-specific CRA statute[2] and the Department attempts to conduct CRA examinations concurrently with its federal counterparts to maximize consistency in examination processes and ratings. Thus, the Department has an interest in any changes made to federal examination processes because such changes may affect the way we conduct our own CRA exams.

The Department supports the proposal to revise the term "community development" to include loans, investments, and services by financial institutions that support, enable, or facilitate projects or activities approved by the United States Department of Housing and Urban Development (HUD) under the Neighborhood Stabilization Program (NSP).

[1] 12 CFR Part 25; 12 CFR Part 228; 12 CFR Part 345; and 12 CFR Part 563e.
[2] Banking Law §28-b and implementing regulations General Regulations of the Banking Board (GRBB) Part 76.

Consequently, we would consider for CRA credit, any covered activities within an institution's New York State assessment area and outside of its assessment area, (but within New York State), provided that the institution has adequately addressed the community development needs of its New York assessment area(s).

Below are the Department's responses on those aspects of the proposed rule that the federal agencies have solicited specific comment.

Should agencies specify a date certain for the rule to "sunset" and, if so, what that date should be?

The Department does not see any benefit to imposing a "sunset" provision on this rule. Instead, we recommend continuing the consideration of NSP-eligible activities in areas that would be eligible for NSP funding, even if NSP funds are not allocated in a given year. As the agencies note, the high levels of foreclosures are projected to continue into 2012 and beyond. The community need will remain regardless of whether there is funding allocated for NSP in any given year. Should that occur, encouraging banks to work to revitalize and stabilize these areas would be more critical. Thus, no sunset provision should be established for crediting these activities as community development projects.

Should CRA consideration be limited to those NSP-eligible activities reflected in HUD-approved NSP plans, or to activities undertaken by financial institutions that support activities that have been funded by the NSP?

The Department favors using a broader definition for NSP-eligible activities, whether reflected in a NSP plan or funded by the NSP. NSP-eligible activities should include all activities that help stabilize or revitalize designated target areas. Currently, because HUD determines which activities are NSP-eligible activities, the focus of NSP-eligibility is limited to activities that impact housing. The Department recommends that the federal CRA regulatory agencies consider *all* activities that seek to revitalize and stabilize communities in the designated targeted areas as NSP-eligible. In so doing, economic development activities, i.e., those that promote job creation, also would be considered NSP-eligible activities. Clearly, such activities meet a critical need in the designated targeted areas. Indeed, in many areas it is the loss of employment that directly led to the prevalence of foreclosures. Although some temporary construction and real estate related jobs are created through NSP-eligible housing projects, these jobs do little to address the serious problem of un- and underemployment in the targeted areas. Thus, financial institutions should be encouraged to engage in community development that goes beyond creating or preserving housing. Broadening the definition of NSP-eligible activities helps to accomplish this.

Should NSP-eligible activities outside of an institution's assessment area(s) be recognized?

The Department agrees that an institution that has adequately addressed the community development needs within its assessment area(s) should receive favorable consideration for NSP-eligible activities that are outside of its assessment area(s). As the agencies note, this would be consistent with the way all other community development activities are considered.

What are the potential costs and benefits of the proposed rule, if adopted.
There appear to be few, if any, costs in expanding the definition of community development to include NSP-eligible activities, however the benefits are compelling. If adopted, the proposed rule may increase community development lending, services and investments in areas that have been hardest hit by the foreclosure crisis. Revitalizing these areas would be beneficial to the broader community, promoting the eradication of blight and the stabilization of property values.

Finally, on the issue of whether the proposed rule, if adopted, will effect an institution's decisions about the amount and type of community development loans, investments, and services it will provide, or the geographies it will target, we opine that, to the extent there is an effect on such decision-making, the effect will be positive. As the agencies note, the proposal will provide an incentive for institutions to engage in community development activities and will create an opportunity to leverage government-funded projects with complementary private financing in areas most in need of assistance. Moreover, the proposed rule imposes no new requirements on any financial institution. Thus, the proposed rule should not negatively impact any of the choices an institution will make in deciding how and where to allocate its community development dollars, as well as, how many dollars to allocate.

Again, thank you for giving us this opportunity to comment on the proposed rule. If we may be of further assistance, please do not hesitate to contact Dianne Dixon, Deputy Superintendent of Banks, Consumer Services Division at (212) 709-3591 or Dianne.Dixon@banking.state.ny.us;,or Wendy Takahisa, Director, CRA Unit at (212) 709-3831 or Wendy.Takahisa@banking.state.ny.us.

Regards,

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New York State Banking Department