



Docket No. 05-17

Office of the Comptroller of the Currency
250 E Street, S.W.
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Washington, DC 20219

Docket No. OP-1240

Ms. Jennifer Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

RIN number 3064-AC97

Robert E. Feldman, Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

January 9, 2005

Dear Federal Regulator:

Thank you for the opportunity to comment on the Joint Notice of Proposed Rulemaking on the Community Reinvestment Act (“CRA”) (Federal Register, Vol. 70. No. 217 pp. 68450+).

The Community Development Venture Capital Alliance (“CDVCA”) is the national trade association of community development venture capital (“CDVC”) funds. CDVC funds provide equity capital and accompanying technical assistance to businesses that create jobs and promote economic development in low- and moderate-income areas of the nation and that benefit low-income people by creating good employment opportunities. They invest in communities and in types of businesses that typically do not have access to venture capital from traditional sources. CDVC funds are a type of community development financial institution (“CDFI”) and many, but not all, seek and receive certification from the CDFI Fund of the Department of Treasury. The largest group of investors in CDVC funds is banks, followed by foundations, government and other socially-motivated institutions and individuals. Banks that invest in CDVC funds are motivated to do so in large part by the CRA. In 2003, 80 percent of the new investments in CDVC funds came from banks.

CDVCA supports the proposal to revise and expand the Interagency Question and Answer (Q&A) that provides examples of qualified investments under the CRA (§ _____.12(t)—4: *What are examples of qualified investments?*). In particular, we strongly support the proposal to include bank investments in Rural Business Investment Companies (“RBICs”), which are venture capital funds created through a program jointly administered by the United States Small Business Administration (“SBA”) and the

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United States Department of Agriculture (“USDA”). RBICs promote economic development in rural areas by financing small businesses in these areas and are a type of CDVC fund.

In addition, CDVCA strongly urges the specific inclusion of both New Markets Venture Capital (NMVC) companies and Community Development Venture Capital (CDVC) funds in the list of qualified investments. We therefore suggest that the language in the third bullet of the proposed revision (§ _____.12(t)—4) be amended to add the following language in italics:

- Organizations, including for example, Small Business Investment Companies (SBICs), specialized SBICs, Rural Business Investment Companies (RBICs), *New Markets Venture Capital Companies (NMVCs) and Community Development Venture Capital Funds (CDVCs)*, that promote economic development by financing small businesses.

The reasons for our suggested changes are as follows:

New Markets Venture Capital Companies

Congress established the New Markets Venture Capital program, at the urging of CDVCA, to bring much-needed equity financing and accompanying technical assistance to businesses in low- and moderate-income communities. The law creating the program describes the purpose of the program as follows:

SEC. 352. PURPOSES.

The purposes of the New Markets Venture Capital Program established under this part are--

- (1) to promote economic development and the creation of wealth and job opportunities in low- or moderate-income geographic areas and among individuals living in such areas by encouraging developmental venture capital investments in smaller enterprises primarily located in such areas.

NMVC funds clearly provide investment capital consistent with the purposes of the CRA and should be included as qualified investment in the Q & A.

Community Development Venture Capital Funds

“Community Development Venture Capital Fund” is the generic name for a venture capital fund that has community development purposes consistent with CRA. Banks motivated by CRA are the major investors in CDVC funds. However, CDVC funds in the past have not been specifically named in the Q&A under “*examples of qualified investments.*” This has made it more difficult and time consuming for CDVC funds to obtain CRA-motivated bank financing and may, in some cases, have actually led to the denial of investments by banks that were looking for investments that they could easily and safely assume would automatically qualify under CRA pursuant to the Q&A.

This is particularly troublesome, because Small Business Investment Companies (SBICs), which compete for capital with CDVC funds, are specifically named in the Q&A. SBICs do not have community development missions, as CDVC funds do. They are limited by SBA regulations to investing in smaller

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businesses¹, but do not have any specific requirements to invest in low- or moderate-income communities or to benefit low-income populations. Our members find it ironic that in some ways it would be easier for them to raise capital from CRA-motivated banks if they would simply adopt the SBIC form without a community development mission, rather than the CDVC form, which is dedicated to community development.

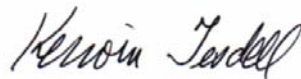
The specific naming in the Q&A of CDFIs, RBICs, and (if our recommendation is accepted) NMVCs does not substitute for naming CDVCs as well. While it is true that many CDVC funds become certified CDFIs, NMVCs or RBICs, many do not. The NMVC and RBIC programs are competitive, and only a small number of such funds have been licensed by the SBA and USDA. The CDFI certification process is more open, but many of our members chose not to apply for CDFI certification, finding the registration process cumbersome and time-consuming.

The fact that there is not a definition of a CDVC fund elsewhere in the law should not be an impediment to listing CDVC funds as qualified investments in the Q&A. Community development loan funds and community development credit unions also are not federally defined entities, but they are named in the proposed Q&A. CDVC funds are analogously a generic type of CDFI that provides community development financing. No venture capital fund would self-identify as a CDVC fund unless it were serious about its community development mission. Many market investors shy away from investing in funds that say they have community development missions due to a perception among many investors that a community development mission may increase risk and lower returns.

In summary, CDVC funds are important providers of community development finance in low- and moderate-income communities, with missions very much in accord with the purposes of the CRA. While banks motivated by CRA are vital sources of capital for the CDVC industry, many CDVC funds have found it difficult to convince certain banks to make investments because, ironically, it is actually more certain that a bank will receive CRA credit for an investment in an SBIC than in a CDVC fund, because SBICs are specifically named in the Q&A. This must be corrected to provide at least a level playing field for CDVC funds. Like community development loan funds and community development credit unions, CDVC funds should be named specifically in the Q&A.

If you would like further information or clarification, please do not hesitate to contact me at (212) 594-6747 x18 or ktesdell@cdvca.org.

Sincerely,



Kerwin Tesdell
President

¹ While SBICs are limited to investing in smaller businesses by SBA regulations, their average investment size is actually much larger than that of CDVCs. For example, the average investment size of a bank-owned SBIC was \$3.6 million in 1999 (the most recent year for which we have statistics), while the average investment size for a CDVC fund was just over \$250,000 in 2004.