Banking and Finance Law Daily Wrap Up,TOP STORY—Agencies propose better guidance on evaluating CRA activities,(Sep. 8, 2014)

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In an effort to make the Community Reinvestment Act evaluation process more understandable, the federal banking regulatory agencies are proposing changes to their Interagency Questions and Answers. The Federal Reserve Board, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency are proposing to revise six of the existing questions and answers and add four new ones. The thrust of the changes appears to be a slight expansion of the activities that will qualify for positive consideration during examinations.

Delivering retail services. According to the agencies, some financial institutions have been concerned that examination criteria over-emphasize the location of physical branches as an aspect of whether low- to moderate-income communities are being served. The agencies are responding to this by proposing to modify two existing Q & As. The changes would allow more consideration of alternative means of delivering retail services—without deemphasizing branch location—and give examiners better guidance on how they should evaluate any alternative means of delivering services banks may be using.

Another revision would give more examples of innovative or flexible lending practices. Small-dollar loan programs and loans based on alternative credit histories would specifically be listed as eligible for favorable consideration. This change also would provide more general guidance on how examiners should analyze innovative or flexible lending practices.

Community development. The proposed changes would offer more clarity in evaluating whether bank and thrift activities are eligible for favorable consideration as community development efforts. Two new Q & As would help make clearer how examiners should decide what activities are eligible to be considered community development.

Related revisions to existing Q & As would:

- add examples of what is an economic development purpose, including job creation, retention, and improvement;
- clarify the consideration of loans for renewable energy or energy-efficient technologies that have a community development purpose; and
- add an example of how activity related to communications infrastructure can revitalize or stabilize an underserved nonmetropolitan middle-income geography, to cover loans that finance broadband infrastructure.

Responsiveness and innovativeness. The agencies note that the CRA rules emphasize the importance of responsiveness and innovativeness, but also that those concepts may not be well-enough explained. To address this, a proposed new Q & A would attempt to make clear what "innovativeness" means. Another would discuss how examiners should evaluate whether a financial institution has been responsive to credit and community development needs, making clear that the effectiveness of a financial institution's activities should be considered, not just their volume and type.

The comment deadline will be 60 days after the proposal is published in the *Federal Register*.