Office of the Comptroller of the Currency Federal Deposit Insurance Corporation Federal Reserve Board Office of Thrift Supervision

December 11, 1996

Interpretive Letter #762 January 1997 12 U.S.C. 2901

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Dear []:

According to your letter, the Bank provides or arranges financing for importers, exporters, wholesalers and other businesses located in the Bank's communities. Typically, the Bank serves these businesses by issuing or confirming letters of credit, providing cash advances, and discounting bankers' acceptances. Most of the businesses have gross annual revenues in excess of \$1 million. The businesses do, however, meet the size eligibility requirements set forth in the Small Business Investment Company (SBIC) Program regulations issued by the Small Business Administration (SBA). You have asked whether CRA examiners would consider favorably a financial institution's provision of trade financing services, such as those provided by the Bank, to businesses that are located in the institution's assessment area(s) and that meet the SBIC program size specifications.

Small business lending is evaluated as part of the lending test section of the large institution examination when such loans meet the definition of "loans to small business" on the Consolidated Report of Condition and Income. *See* 12 CFR §§ 25.12(u) and 25.22(a)(1); 228.12(u) and 228.22(a)(1), 345.12(u) and 345.22(a)(1), and 563e.12(u) and 563e.22(a)(1). However, if the trade-related small business financing you provide cannot be included in that report, it might qualify as community development lending evaluated under 12 CFR § 25.22(b)(4).

The CRA regulations define "community development loan," as a loan that has "as its primary purpose community development," is not reported as a home mortgage, small

business or consumer loan, and benefits the bank's assessment areas or a broader statewide or regional area that includes the assessment area. *See* 12 CFR §§ 25.12(i), 228.12(i), 345.12(i), and 563e(h). "Community development" is defined to include, among other things, "activities that *promote economic development* by financing businesses [that meet the size specifications in regulations governing the SBA's SBIC program]." *See* 12 CFR §§ 25.12(h)(3), 228.12(h)(3), 345.12(h)(3), and 563e.12(g)(3) (emphasis added). To be considered to promote economic development, activities that finance small businesses must support: (1) permanent job creation, retention, and/or improvement for persons who are currently low- or moderate-income; or (2) businesses located in low- or moderate-income areas or in areas targeted for redevelopment by federal, state, local, or tribal governments. *See* Community Reinvestment Act; Interagency Questions and Answers Regarding Community Reinvestment, 61 Fed. Reg. At 54,650 (Oct. 21, 1996) (question and answer 1 addressing 12 CFR §§ 25.12(h)(3), 228.12(h)(3), 345.12(h)(3), and 563e.12(g)(3)).

Thus, a financial institution's loan that promotes economic development by financing a business that meets the size eligibility standards of the SBA's SBIC program would constitute a "community development loan" under the CRA regulations. In addition to originations and purchases of community development loans, examiners "will also consider any other loan data the bank may choose to provide, including data on loans outstanding, commitments and letters of credit." See 12 CFR §§ 25.22(a)(2), 228.22(a)(2), 345.22(a)(2), and 563e.22(a)(2). The trade financing services described in your letter involve various commitments and letters of credit. Therefore, a financial institution that offers such trade financing services should provide data on those services, as "other loan data," to its CRA examiners if it wishes examiners to consider these activities.

I trust this has been responsive to your inquiry. If you require further information, please do not hesitate to contact me or Michele Meyer, an attorney on my staff, at (202) 874-5750.

Sincerely,

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Michael Bylsma Acting Director Community and Consumer Law Division