National Trust *for* Historic Preservation — Save the past. Enrich the future.
National Trust Community Investment Corporation — a subsidiary of the National Trust *for* Historic Preservation
Historic Tax Credit Coalition
National Main Street Center — a subsidiary of the National Trust *for* Historic Preservation

November 7, 2014

OCC Docket ID OCC-2014-0021
Federal Reserve Docket No. OP – 1497
FDIC Attention: Robert E. Feldman

Re: Community Reinvestment Act: Interagency Questions and Answers Regarding Community Reinvestment

To whom it may concern:

This letter responds to the request for comments issued on September 8, 2014 by the Office of the Comptroller of the Currency, the Federal Reserve System and the Federal Deposit Insurance Corporation ("the Agencies") on proposed changes to the Community Reinvestment Act ("CRA") Questions and Answers document ("Proposed Changes"). The views expressed herein represent the recommendations of the National Trust for Historic Preservation, the Historic Tax Credit Coalition, the National Trust Community Investment Corporation, the National Main Street Center, Inc. and over 150 supporting organizations and institutions across the country. (See related sign-on letter.)

We generally support the Proposed Changes and urge the Agencies to adopt more specific guidance and examples of when bank investments in the federal Historic Tax Credit ("HTC") would qualify for CRA credit.

Background

The National Trust for Historic Preservation ("National Trust") is a privately-funded non-profit organization chartered by Congress in 1949. With headquarters in Washington, D.C.; 13 field offices; 27 historic sites; 746,000 members and supporters; and partner organizations in 50 states, territories, and the District of Columbia; the National Trust works to save America's historic places and advocates for historic preservation as a fundamental value in programs and policies at all levels of government.

The National Trust Community Investment Corporation ("NTCIC") is a for-profit subsidiary of the National Trust that provides equity and debt to real estate projects that help revitalize low- and moderate- income ("LMI") communities. NTCIC has partnered with over 15 corporate investors to deploy capital generated by federal and state historic, new markets, low income housing and solar tax credits. Since 2000, NTCIC has placed more than $785 million in gross equity and debt to help finance 104 projects with total development costs of $2.6 billion. NTCIC is also a certified Community Development Entity that has received $413 million in new markets allocations from the Community Development Financial Institutions Fund of the US Treasury. NTCIC has completed 60 transactions that combine the use of federal historic and new markets tax credits.

The National Main Street Center, Inc. ("NMSC") is a non-profit subsidiary of the National Trust committed to preservation-based community revitalization. For the past 34 years, the NMSC has equipped more than 2,000 communities with a 4-point organizing framework to preserve and revitalize their traditional downtowns and commercial districts. The affiliated Main Street organizations that make up the Main Street Network have rehabbed more than 246,000 buildings, produced $59.6 billion in investment, and created 502,728 jobs.

The Historic Tax Credit Coalition ("HTCC") is an organization of historic tax credit industry participants who have come together to develop a consensus on ways to modernize the federal Historic Tax Credit. Its members are tax credit syndicators, investors, tax attorneys, accountants, preservation consultants and real estate developers who use the HTC as a financing tool to promote economic development through the rehabilitation of historic properties. The HTCC's activities include research on the economic impact of the HTC, the development of legislative and regulatory proposals to promote the simplification and greater use the HTC, and efforts to foster greater communication between the National Park Service, the Internal Revenue Service and the HTC industry.

The Federal Historic Tax Credit

The federal HTC was enacted in 1981 and signed into law by President Reagan as part of an economic stimulus package. The larger bill lowered corporate taxes and sought to inject capital into the real estate market. The specific purpose of the HTC was to even the playing field between urban rehabilitation and new construction in suburban areas. The concern was that urban centers, already in a steep economic decline, would suffer further economic erosion if there was not an offsetting federal incentive to rehabilitate existing older buildings. The policy underpinnings of the HTC were reaffirmed by Congress as part of the 1986 tax reform act that made the current form of the 20% HTC a permanent part of the tax code.

Based on research by Rutgers University's Center for Urban Policy Research, since its inception, $21 billion in HTC credits certified by the National Park Service ("NPS") have helped finance the rehabilitation of 39,800 properties and leveraged $109 billion in total investment.[1] The HTC has generated 2.4 million jobs and $36.5 billion in federal, state and local tax receipts. NTCIC has used NPS address data on the 9,792 HTC transactions certified between 2001 and 2013 to document that 84% were located in LMI income census tracts.[2] A survey of NTCIC's HTC investments since 2000 has shown that nearly 100% are in designated federal, state or local economic development districts. Fifty-one percent of all HTC projects have provided market rate, mixed-income or low income housing. A total of 448,056 housing units have been developed or retained over the life of the program of which 27% have been affordable units.[3]

NTCIC's analysis of the same NPS database also shows that most HTC projects and investments are sponsored by small businesses. Forty-four percent of all certified historic rehabilitations over the past 13 years have had total development costs of $500,000 or less. Fourteen percent have had costs of $500,000 to $1 million. While there are no data available on the net worth or annual gross revenues of the project sponsors, NTCIC's twenty-one HTC investments in projects with $2 million or less in total development costs have all been to small non-profit and for-profit real estate entrepreneurs.

NTCIC has also used the CDFI's online mapping program to conduct a survey of the 738 active Main Street programs and found that 61% (448 programs) were in LMI census tracts. Of those LMI areas, 37% (273 programs) were in severely distressed census tracts with poverty rates of at least 30%, unemployment rates at least 1.5 times the national average or incomes at or below 60% of area median income. Forty-six percent of Main Street programs (342) are in nonmetropolitan (rural) census tracts. Because of the limited scale of Main Street real estate, these 1-3 story buildings are best suited to accommodate the space needs of small, locally-owned and startup businesses that cannot afford the lease rates of suburban malls and would likely qualify for SBA program assistance. Main Street directors continue to report how difficult it is to secure bank financing for the small, undercapitalized businesses who sponsor these projects.

General Comments

The National Trust, NTCIC, NMSC and the HTCC agree with the general direction of the Proposed Changes. We applaud the greater emphasis placed on transactions that build wealth through job creation and retention or that stabilize LMI areas. Several national studies have shown that federal historic tax credit projects have a strong track record of job creation and stabilizing LMI areas. However, we think that the Proposed Changes need to go much further to make banks comfortable that HTC transactions that produce these community impacts can qualify for CRA. This belief is based on scores of discussions with community lending and CRA staff at financial institutions over the years.

[1]Data expressed in 2014 dollars.

[2]Data was uploaded to the CDFI Fund's website mapping tool to determine which addresses were in LMI (80% of median) census tracts. Results are more accurate and current than National Park Service estimates.

[3]National Park Service.

<u>Comments on Section III A. – Q&A §__ .12(g) (3) – 1</u>

The Agencies propose to further clarify, under **Q&A §__ .12(g) (3) – 1**, the "size" and "purpose" tests, that determine whether bank activities are qualified community development activities. The examples emphasize a new focus on job creation and job training. We support this emphasis and believe that the location and commercial nature of HTC projects generate quality, accessible jobs for low-income persons and LMI area residents.

We know that historic rehabilitation creates more jobs than many more commonly used government stimulus activities. In the *Second Annual Report on the Economic Impact of the Federal Historic Tax Credit,* (see attached 2013 report) David Listokin states:

> ["Numerous studies conducted by Rutgers University throughout the country have shown that a $1 million investment in historic rehabilitation realizes a markedly better economic effect in many places in the United States with respect to employment, income, Gross State Product and state-local taxes compared to a similar increment of investment in an array of residential and nonresidential new construction (including building highways--a stimulus favorite) or $1 million in investment in an array of important business activities such as manufacturing (e.g. machinery or automobile) and services (e.g. telecommunications)".]

We also support the Agencies' inclusion of the example of "federal, state, local or tribal economic development initiatives," however, we would suggest the following edit (in bold and italics) to assist banks in qualifying HTC activities:

> [". . . or (2) Federal, state, local or tribal economic development initiatives that include provisions for creating or improving access by low – and moderate – income persons to jobs, affordable housing, financial services or community services, ***or activities in such districts that are consistent with plans that revitalize or stabilize the LMI area by attracting new, or retaining existing, businesses or residents.***"]

To provide consistency throughout the Q&A on this point, we would also suggest a change to the existing **Q&A §___.12 (h) – 8.** Section .12(h) – 8 provides two methods of determining a "primary purpose of community development." The first test is a dollar test in which a "majority" of the investment or loan provided must be allocated to community development purposes to be deemed qualified for CRA. The second test is much more nuanced, but does state that activities that support a "community action plan" where the intent is "primarily one or more enumerated community development purposes," is qualified for CRA credit. In our experience, banks almost always use the easier, more quantifiable dollar test rather than the more challenging language of the second test. We propose that the new **Q&A §___.12 (h) – 8** would read as follows (edits in bold and italics):

> ["(1) if the express bona fide intent of the activity as stated, for example, in a prospectus, loan proposal or community action plan, is primarily one or more of the enumerated community development purposes ***or is consistent with the approved plan for an LMI area that is a designated federal state, local or tribal economic development district, and has the support, in the form of a letter or minutes of a public meeting, of the governmental agency with jurisdiction over such a district***, . . . then the requisite primary purpose may be found".]

A recently released study entitled, *The Federal Historic Tax Credit: Transforming Communities* (see attached) supports our proposed emphasis on CRA credit for activities involving the HTC that are located in economic development districts. Completed for the National Trust by Place Economics in June 2014, this report uses five case studies in economic development zones to show the catalytic impact of HTC investments.

One study was done of Miller's Court, a circa 1874 former tin box and can manufacturing plant that was converted in 2009 to 40 housing units targeted to public school teachers and 35,000 square feet of office space for education-related nonprofits. The project is located in Baltimore's LMI Remington neighborhood. The study found that prior to the completion of Miller's Court, between 2008 and 2009, just 2 building permits were issued in the area. After placement in service, in the period 2010-2013, a total of 17 building permits were issued.

A second set of case studies was done on the W.P. Fuller Paint Company and the ZCMI warehouse in Salt Lake City's Depot District. The circa 1914 Fuller Paint property, originally used as a warehouse, was rehabilitated in 2004 into a 68,000 square foot of office and storage space. The ZCMI warehouse, built in 1905, was transformed in 2006 into 18 artist live/work spaces and 20,000 square feet of first-floor gallery space. The study looked at the property values in the Depot District between 2008 and 2012. Property values city wide in Salt Lake declined 17% over this period, reflecting the great recession, however, property values in the Depot District increased 22.5%.

To further promote a consistent understanding of the eligibility of the HTC for CRA credit throughout the Q&A, we suggest adding an example to **Q&A §____.12 (t) – 4 A.4** as follows:

- ["***Projects eligible for the federal Historic Tax Credit located in LMI areas that are also designated federal, state, local or tribal economic development districts that have support, in the form of a letter or minutes of a public meeting of the governmental agency with jurisdiction over such a district***".]

Finally, we further recommend the following change **Section III A.-Q&A_.12 (g) (3):**

["The Agencies will presume that any loan to or investment in a SBDC, SBIC, Rural Business Investment Company, New Markets Venture Capital Company, New Markets Tax Credit-eligible Community Development Entity ***or to a Historic Tax Credit-eligible project located in an LMI area that is also a federal, state, local or tribal economic development district that promotes economic development."]***

Comments on Section III C. - Q&A §___.12 (g) (4) (iii) – 4

We support the Agencies' Proposed Changes to **Q&A §___.12 (g) (4) (iii) – 4**, related to revitalizing or stabilizing underserved nonmetropolitan middle income areas. Many organized Main Street districts are not in LMI census tracts, but they are adjacent to LMI areas. A new Main Street pharmacy or grocery store may well serve both LMI and middle class residents. To add a retail example to the Proposed Changes to this question, we would suggest an additional bullet as follows:

["***Retail facilities that serve the community including low – and moderate – income*** residents."]

Comments on Section I A. Q&A§__.24(d) - 1

We support the position of other industry advocates who say that the primary emphasis on assessing the CRA performance of financial institutions should be within their retail footprint. We do not oppose greater recognition of qualified investments within a regional are statewide geography or the recognition of eligible activities wherever a bank has depositors. But these regional, state or national investments should not be at the expense of activities within the institution's retail branch network. Full-service, physical, retail bank facilities are part of the mix of uses that make communities healthy. Meeting the credit needs of LMIs through these branches remains important.

Conclusion

In summary, we believe that the federal HTC has a unique ability to create quality jobs accessible to LMI residents and to stabilize or revitalize LMI communities. HTC projects create more jobs than new construction and other widely used stimulus strategies. Eighty-four percent of HTC transactions since 2001 have been located in LMI census tracts. Large commercial and residential projects are typically located in designated economic development districts. Historic properties offer affordable space for small businesses and most HTC transactions are sponsored by small businesses especially in a Main Street setting.

We have offered above modest edits to help banks better recognize the HTC's CRA outcomes. Thank you for the opportunity to submit these comments on the Interagency Questions and Answers Regarding Community Reinvestment.

If you have any questions for any of us, please don't hesitate to contact John Leith-Tetrault who can be reached via email at jleith@ntcic.com or via phone at 202.588.6064.

Sincerely,

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